Board of Regents Regular Meeting

New Mexico State University
Board Room, Educational Services or on Zoom.
2026-10-01 13:00 - 17:00 MDT

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Public comment is provided so members of the community have an opportunity to give input to the Board of Regents. In compliance with the New Mexico Open Meetings Act, the board is prohibited from acting on any item that does not appear on the agenda, except in the case of an emergency. Consequently, topics for public comment will be limited to items that appear on the agenda. Everyone addressing the board is asked to state their name and to please keep their comments to 3 minutes. Speakers will be notified when 30 seconds remain. Please note that a maximum of 30 total minutes will be allotted for all of public comment to take place.

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Board of Regents Meeting
Meeting Date: October 1, 2026
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Agenda Item # III.A

☒ Action Item
☐ Consent Item
☐ Informational Item

Presented By: Christopher Saucedo
Secretary/Treasurer,
NMSU Board of Regents

Agenda Item: Special Meeting Minutes from September 8, 2026

Requested Action of the Board of Regents: Approval of the Special Meeting Minutes for September 8, 2026, as presented.

Executive Summary:

As required by the New Mexico Open Meetings Act, the board shall keep written minutes of all its meetings. The minutes shall include at a minimum the date, time and place of the meeting, the names of members in attendance and those absent, the substance of the proposals considered and a record of any decisions and votes taken that show how each member voted. All minutes are open to public inspection. Draft minutes shall be prepared within ten working days after the meeting and shall be approved, amended or disapproved at the next meeting where a quorum is present. Minutes shall not become official until approved by the board.

References:

NM Open Meetings Act §10-15-1 G.

Prior Approvals:
N/A

NEW MEXICO STATE UNIVERSITY BOARD OF REGENTS SPECIAL MEETING
September 8, 2026, at 3:00 PM

Educational Services Building, Regents Room
1780 E. University Avenue, Las Cruces, NM

DRAFT

Regents Present:	Chair Ammu Devasthali, Vice Chair Deborah Romero, Secretary/Treasurer Christopher T. Saucedo, Marisol Olivas, Ricardo Gonzales
Advisory Members:	ASNMSU President Carina Frisch, Employee Council Chair Sonia A. White Faculty Senate Chair Kristian Finlator was not present
Officials Present:	Provost & Vice President for Academic Affairs Joseph Bull, Vice President for Administration and Finance, Allen Bottorff, General Counsel, Lisa Henderson.

MINUTES

I. **Call to Order**, *Chairwoman Ammu Devasthali*

Chairwoman Ammu Devasthali called the special meeting of the New Mexico State University Board of Regents to order at 3:00 PM.

A. **Confirmation of Quorum**, *Chairwoman Ammu Devasthali*

The roll was called to verify attendance. All five voting members of the Board of Regents were verified as present online. Advisory members President Frisch and Chair White were also confirmed present, alongside administrators Provost and Vice President for Academic Affairs Bull, General Counsel Henderson, Vice President Bottorff, and President Ferme. Faculty Senate Chair Finlator was not present.

B. **Approval of the Agenda**, *Chairwoman Ammu Devasthali*

Regent Gonzales moved the approval of the agenda as presented and Regent Olivas seconded. The agenda was approved as presented.

II. **Confirmation of Prior Closed Executive Session on September 3, 2026**

The Board of Regents of New Mexico State University held a closed meeting at 9:00 am on Thursday, September 3, 2026. The closed meeting was called to complete the annual performance evaluation of the President under his contract and as permitted under the personnel matters exemption of the New Mexico Open Meeetings Act, NMSA Section 10-15-1, subsection (H)(2).

Those board members present certified that only matters of that nature were discussed.

Regent Gonzales: Yes

Regent Olivas: Yes

Regent Saucedo: Yes

Regent Romero: Yes

Regent Devasthali: Yes

III. **Approval of Minutes for the Regular Meeting on August 18, 2026**

The minutes of the regular Board of Regents meeting held on August 18, 2026, were presented for consideration. Regent Romero moved approval of the minutes, Regent Olivas seconded the motion, and it passed unanimously.

IV. **Consent Items**

A. None.

V. **Action Items**

A. **Review and Approval of a Sponsorship Naming Opportunity,** *General Counsel Lisa Henderson and Athletic Director Joe Fields*

General Counsel Lisa Henderson and Athletic Director Joe Fields presented a corporate sponsorship naming proposal for the Pan American Center in partnership with local partner, White Sands Federal Credit Union. The sponsorship is $13 million total over 10 years with equal installments paid annually in quarterly payments to NMSU. Market analysis places this deal in the top 15 nationally for basketball arenas while preserving the historic "Pan American Center" name. The revenue will directly fund 17 Division 1 programs and over 400 student-athletes, lessening dependence on general university funds. Signage locations and updates to the Pan American Center is still being determined, but the cost will be covered by NMSU Athletics' multimedia partner, Van Wagner. It was also confirmed that this contract with White Sands Federal Credit Union is separate from the leasing agreement with Aggie Uptown. Regent Devasthali and Regent Romero highlighted the necessity of a transparent internal plan under presidential oversight to ensure incoming revenues are spent responsibly.

Chairwoman Devasthali moved to approve the proposed sponsorship naming opportunity, including re-naming the NMSU Pan American Center as the White Sands Federal Credit Union Arena at the Pan American Center in exchange for $13 million, payable in equal annual installments over ten years. Regent Olivas seconded and the motion passed unanimously via a roll-call vote.

VI. **Adjournment**

With no further business before the board, Regent Devasthali moved to adjourn the meeting. Regent Olivas seconded the motion, and the regular meeting of the NMSU Board of Regents was officially adjourned at 3:17 PM.

DRAFT

Board of Regents Meeting
Meeting Date: October 1, 2026
Agenda Item Cover Page

Agenda Item # VII.A

☐ Action Item
☐ Consent Item
☒ Informational Item

Presented By: **Sylvia Y. Acosta, Ph.D.**
CEO
NMSU Foundation Inc.

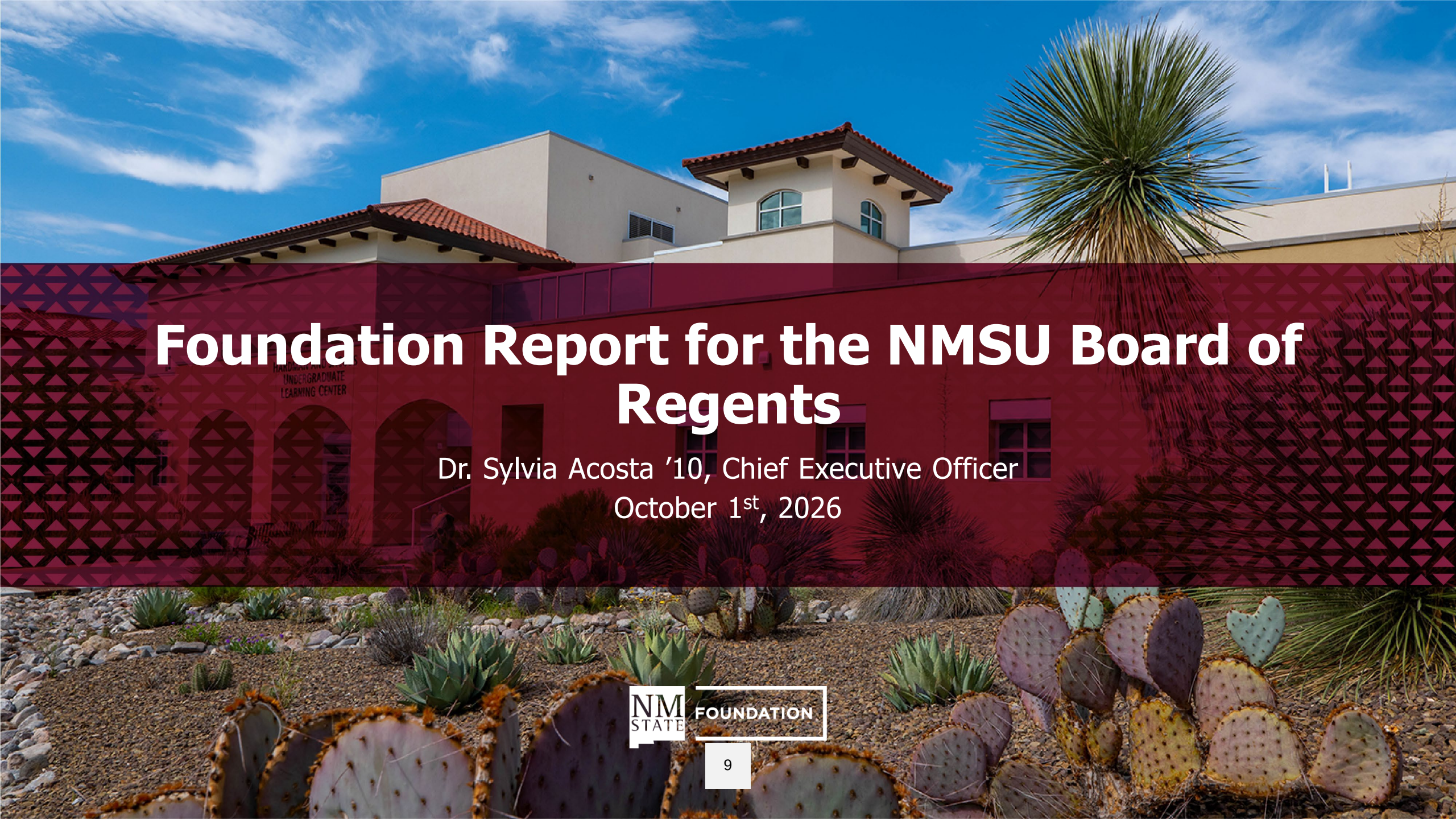
Agenda Item: Report from NMSU Foundation Inc.

Requested Action of the Board of Regents: None. Information only.

Executive Summary: This is a quarterly report provided to the Board of Regents from NMSU Foundation Inc.

References:
See attached report.

Prior Approvals:
N/A



Foundation Report for the NMSU Board of Regents

Dr. Sylvia Acosta ’10, Chief Executive Officer

October 1st, 2026

NM STATE FOUNDATION

The Foundation Fundraising Report

Fundraising to Date:

**As of September 24, 2026*

$11,202,463

43% to $25,515,000 Goal

Fundraising Breakdown by Type

Planned Gifts: $7,751,567

Cash: $3,450,896

The Foundation Fundraising Report

Assets Under Management (AUM)
**As of August 31, 2026*

$521,372,787

- Year over Year Growth of 12.5% ($461M as of August 31, 2025)

Available Funds to the University

2026 – 2027 (Fiscal Year Start)	Total
Foundation Funding Available	$38,563,047
Unrestricted Funding Available	$8,275,393

*Unrestricted includes all funds categorized as discretionary Funds.

As of 09/24/2026

Scholarships

During the 2025-2026 academic year, the Foundation through donors, provided $2.85 million in scholarship support to date.

Scholarship Awarding	Scholarships Awarded	Foundation Total Scholarship Amount Provided
2025 – 2026	5,409	$2,850,868

Scholarship Awarding Breakdown	Current Use Scholarship Amount Provided	Endowed Scholarship Amount Provided
2025-2026	$1,587,934	$1,262,934

As of 09/24/2026

Fundraising Breakdown (5 Primary Colleges) to Date

July 1 – September 24, 2026

Unit	Total Raised	Goal
ACES	$1,281,255	$2,625,000
Arts & Sciences	$3,431,968	$3,675,000
Business	$262,758	$2,100,000
Engineering	$902,420	$4,410,000
HEST	$689,192	$1,575,000

As of 09/24/2026

Fundraising Breakdown (University Units) to Date

July 1 – September 24, 2026

Unit	Total Raised	Goal
Athletics	$779,774	$3,150,000
Community Colleges	$232,599	$800,000
Student Affairs	$733,471	$1,150,000
Other NMSU Units	$334,238	$1,515,000
Foundation Holding	$2,554,788	$4,500,000

*Organizations include all non-individual entities such as corporations, foundations, and similar institutions.

*Foundation Holdings consists of Foundation-controlled accounts pending fully executed donor gift agreements

*Foundation goals based on 5-year historical production average, plus additional 5% growth rate.

As of 9/24/2026

Past Alumni Events

August 2026

- Always an Aggie Live Webinar "From Student to CEO"
  - RSVP: 107 Attendee: 60
- DMV (Delaware, Maryland, Virginia) Mixer
  - RSVP: 113 Attendees: 80

September 2026

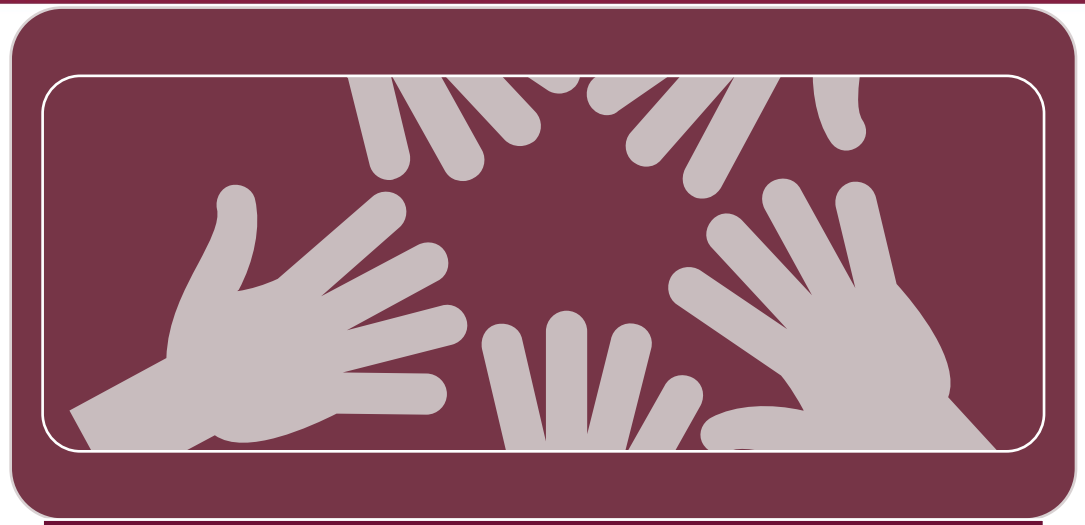
NMSU vs. Mercyhurst Tailgate (in collaboration with Goal Line Club
- Attendees: 212

Grand In The Stands (GITS) Volleyball vs. UTEP
- Attendees: 197

Grand In The Stands (GITS) Soccer vs. UTEP
- Attendees: 192

NMSU vs. UNM Tailgate (in collaboration with Goal Line Club)
- Attendees: 350+ (final counts still being tallied)

Alumni News!



The Alumni Relations Department has actively engaged **4,268** alumni and of those 1,860 (44%) are active donors to NMSU!

Upcoming Alumni Events

October 2026

- October 1 - NMSU vs WKU Tailgate (with Athletics)
- October 15 – Boise Mixer
- October 27-28 – Giving Tuesday: Fundraising 101
- October 28 - NMSU vs. Jax State Tailgate (with Athletics)

November 2026

- November 5 – Homecoming Welcome Event
- November 6 – Distinguished Alumni Awards Dinner
- November 7 – Homecoming Parade
- November 7 – Homecoming Tailgate (NMSU vs. Liberty)
- November 21 – NMSU vs. Delaware Tailgate (with Athletics)

December 2026

- December 1 – Giving Tuesday
- December 6 – Noche de Luminarias (in partnership with ASNMSU)
- December 9 – Ring Ceremony
- December 11 – Fall Outstanding Graduate Luncheon



Thank you!

Dr. Sylvia Acosta '10
Chief Executive Officer
NMSU Foundation Inc.

NM STATE FOUNDATION

New Mexico State University Foundation Update

Dr. Sylvia Acosta ’10

10/01/26

Executive Summary

The NMSU Foundation continues to demonstrate strong financial stewardship, fundraising momentum, and alumni engagement during Fiscal Year 2026-2027. Fundraising efforts have generated more than $11.2 million toward the annual goal of $25.5 million, while assets under management have grown to $521.4 million, representing a 12.5% increase over the previous year. The Foundation also continues to provide significant support for student, faculty, and staff success through scholarships and institutional funding while expanding alumni engagement initiatives across the university.

Fundraising Performance

As of September 24, 2026, the Foundation has secured $11,202,463, achieving 43% of its annual fundraising goal of $25,515,000. Fundraising performance has been driven primarily by planned gifts, which account for approximately $7.75 million, while cash gifts total approximately $3.45 million.

Key Highlights

- Total funds raised: $11.2 million
- Progress toward annual goal: 43%
- Planned gifts: $7.75 million
- Cash contributions: $3.45 million

The current fundraising pace positions the Foundation well for continued growth, though achieving the annual goal will require sustained donor engagement and solicitation efforts throughout the remainder of the fiscal year.

Financial Strength and Asset Growth

The Foundation's assets under management (AUM) have increased to $521.4 million, reflecting a 12.5% year-over-year increase from approximately $461 million. This growth demonstrates both strong investment performance and continued philanthropic support from donors.

Significance

The increase in assets strengthens the Foundation's ability to:

- Support scholarships and academic programs.
- Provide long-term financial stability for endowed funds.
- Generate investment returns that benefit students, faculty, and university initiatives.
- Expand institutional support opportunities in future years.

Foundation Support for NMSU

At the beginning of FY 2026-2027, the Foundation had $38.56 million available for university support, including $8.28 million in unrestricted funding available for strategic priorities and discretionary needs.

Available Funding

Category	Amount
Total Foundation Funding Available	$38,563,047
Unrestricted Funding Available	$8,275,393

The unrestricted funding available is considered restricted/unrestricted as it is held in the various deans/department discretionary funds. This is particularly important because it provides the respective departments and deans with flexibility to address emerging opportunities and institutional priorities.

Scholarship Impact

During the 2025-2026 academic year, the Foundation through donors provided $2.85 million in scholarship support to date.

Scholarship Distribution

Scholarship Type	Amount
Current Use Scholarships	$1,587,934
Endowed Scholarships	$1,262,934
Total Scholarships Awarded	$2,850,868

These totals directly contribute to student recruitment, retention, and academic success across the university system and help provide students with financial support.

College Fundraising Performance to Date (July 1 – September 24, 2026)

Among the five primary colleges, fundraising performance varies significantly.

- ACES: $1.28 million raised
- College of Arts & Sciences: $3.43 million raised
- Business: $262,758 raised
- Engineering: $902,420 raised
- HEST: $689,192 raised
- Athletics: $779,744
- Community Colleges: $232,599
- Student Affairs: $733,471
- Other NMSU Units: $305,079 raised
- Foundation Holdings*: $2.5 million raised

**Foundation Holdings consists of Foundation-controlled accounts pending fully executed donor gift agreements.*

Alumni Engagement and Outreach

The Foundation continues to strengthen lifelong relationships with alumni through educational, social, and donor-centered programming.

Recent Event Successes

Recent alumni events generated strong attendance, including:

- NMSU vs. UNM Tailgate: More than 350 attendees. (In collaboration with the Goal Line Club)
- NMSU vs. Mercyhurst Tailgate: 212 attendees. (In collaboration with the Goal Line Club)
- Grand In The Stands Volleyball Event: 197 student attendees.
- Grand In The Stands Soccer Event: 192 student attendees.
- DMV Mixer: 80 attendees.
- Always an Aggie Webinar: 60 attendees.

These events create valuable opportunities to enhance alumni affinity, increase engagement, and encourage philanthropic participation.

Alumni Engagement Metrics

The Foundation reports active engagement with 4,268 unique alumni, of which 1,860 are active donors. Over the last three years, the amount that active alumni donors have given has increased, and retention remains above 48%. This represents a strong foundation for future fundraising growth and highlights the importance of continued outreach, relationship building, and stewardship efforts.

Upcoming Alumni Events & Opportunities

A robust calendar of activities is planned for October through December 2026, including:

- Athletic tailgate events.
- Regional alumni mixers.
- Giving Tuesday educational programming.
- Homecoming celebrations.
- Distinguished Alumni Awards.
- Noche de Luminarias partnership programming.
- Ring Ceremony and Outstanding Graduate recognition events.

These initiatives provide meaningful opportunities to deepen alumni engagement, increase donor participation, and elevate the Foundation and University's visibility.

Conclusion

The NMSU Foundation enters the second quarter of Fiscal Year 2026-2027 in a strong position. Fundraising performance has reached 43% of goal, assets under management exceed $521 million, and the Foundation continues to provide substantial scholarship and operational support to the university. Alumni engagement remains robust, with thousands of engaged alumni and a steady pipeline of events designed to strengthen philanthropic relationships. Overall, the Foundation's results demonstrate continued advancement of its mission to support student success, academic excellence, and the long-term strategic priorities of New Mexico State University.

Board of Regents Meeting
Meeting Date: October 1, 2026
Agenda Item Cover Page

Agenda Item # IX.A

☐ Action Item
☒ Consent Item
☐ Informational Item

Presented By:
Jeff M. Witte
Director/Secretary New Mexico Department of Agriculture (NMDA)

Agenda Item:

Proposed Repeal and Replacement of the Commercial Feeds Rule, Title 21, Chapter 18, Part 3 of the New Mexico Administrative Code (21.18.3 NMAC)

Requested Action of the Board of Regents:

Approval of Repeal and Replacement of 21.18.3 NMAC, Commercial Feeds Rule.

Executive Summary:

The New Mexico Department of Agriculture (NMDA) held two hearings regarding the proposed repeal and replacement of 21.18.3 NMAC. On Tuesday, August 4, 2026, at 1 p.m. a public video/telephonic and in-person hearing was held at Gerald Thomas Hall Auditorium (Rm 194), New Mexico State University, located at 940 College Drive in Las Cruces, NM 88003. On Thursday, August 6, 2026, at 1 p.m. an in-person hearing was held at the CNM Workforce Training Center located at 5600 Eagle Rock Ave, NE in Albuquerque, NM 87113.

The Rulemaking Notice was published in the New Mexico Register on June 23, 2026. Notice was provided to the Sunshine Portal, in the Santa Fe New Mexican (both English and Spanish), the Albuquerque Journal, The Las Cruces Sun News, and the NMDA website. Notification and the proposed rule were sent to the New Mexico Economic Development's Small Business Regulatory Advisory Commission and to Legislative Council Service. NMDA has not received findings from either. Notice of public hearings was sent to all current commercial feed registrants.

The hearing officer provided the following information for my consideration. I agree with the hearing officer's recommendation and thereby recommend the following for your consideration.

Hearing Officer's Report

This memorandum represents the summary of the hearings held at the beginning of August. The content is provided for your consideration and a decision tool for you to present a recommendation to the New Mexico State University Board of Regents for its adoption of the proposed Repeal and Replacement of Title 21, Chapter 18, Part 3 of the New Mexico Administrative Code (21.18.3 NMAC, Comm Feeds).

Primary statutory elements contained in the proposed Commercial Feeds replacement rule include the following (as presented by Agricultural Production Services Division staff):

> The proposed rule repeals and replaces the existing Commercial Feeds Rule to establish a modernized regulatory framework that is more consistent with current industry standards and more closely aligned with nationally recognized model regulations developed by the Association of American Feed Control Officials (AAFCO). Aligning New Mexico's regulations with these nationally recognized standards will promote greater consistency in the administration and enforcement of the Commercial Feed Act, facilitate compliance with applicable state and federal labeling requirements, reduce unnecessary regulatory burdens on regulated entities, and support the efficient interstate distribution of commercial feed and pet food products while maintaining appropriate consumer and animal health protections.

During the review period, Deputy General Counsel provided recommended changes to the definitions of Veterinary Diet and Prescription Diet. These changes were non-substantive and are incorporated in the attached final version of the proposed rule.

The hearing officer, based upon the comments and hearing outcomes, suggests adoption of the 21.18.3 NMAC Commercial Feeds replacement in full with the inclusion of Deputy General Counsel's suggested modification to the definition of Veterinary Diet and Prescription Diet.

References:

Section 76-1-2C NMSA 1978, authorizes the board of regents of New Mexico State University, relative to the New Mexico Department of Agriculture, the authority to adopt and file in compliance with the State Rules Act [Chapter 14, Article 4 NMSA 1978], regulations as may be necessary to carry out its duties.

Prior Approvals:

Agenda Item Approved By:

Each office may determine required signatures (if any). All items should be routed through the President's Office, University General Counsel, or the Secretary of NMDA as appropriate.



9/15/2026

Jeff M. Witte
Director/Secretary

Date

RULEMAKING PACKET-
BOARD OF REGENTS

Commercial Feeds

NMDA
New Mexico Department of Agriculture

Official Record

New Mexico Department of Agriculture

Repeal and Replace 21.18.3 NMAC

NMDA Rulemaking Procedures

October 1, 2026

NMDA
New Mexico Department of Agriculture

NMDA Rulemaking
21.18.3 NMAC

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Director/Secretary Recommendation Memo

NEW MEXICO DEPARTMENT OF AGRICULTURE
Office of the Director/Secretary
MSC 3189
New Mexico State University
P.O. Box 30005
Las Cruces, NM 88003-8005
Phone: (575) 649-0505

September 10, 2026

MEMORANDUM

TO: New Mexico State University Board of Regents

FROM: Jeff M. Witte, Director/Secretary

SUBJECT: Recommendation to Adopt the Hearing Officer's Recommendation
RE: New Mexico Department of Agriculture Hearings on Proposed Repeal and Replacement of the Commercial Feeds Rule, Title 21, Chapter 18, Part 3 of the New Mexico Administrative Code (21.18.3 NMAC) (Attached)

BACKGROUND INFORMATION

The hearings concerning New Mexico Department of Agriculture's (NMDA) proposed repeal and replacement of 21.18.3 NMAC took place on two different occasions and locations as follows:

1. Tuesday, August 4, 2026, in person, by video conference, or by telephone. The hearing took place at the Gerald Thomas Hall Auditorium (Room 194) on the campus of New Mexico State University, located at 940 College Drive, Las Cruces, NM. A court reporter was online in the Zoom for the hearing.

2. Thursday, August 6, 2026, public, in-person hearing at the CNM Workforce Training Center, located at 5600 Eagle Rock Ave NE, Albuquerque, NM. A court reporter was present for the hearing.

Public notices for these hearings were published as follows, and in accordance with state laws:

1. June 23, 2026 in the New Mexico Register
2. June 23, 2026 in the Albuquerque Journal
3. June 23, 2026 in the Santa Fe New Mexican in Spanish and English
4. June 23, 2026 in the Las Cruces Sun News

Hearing notices were also posted on the New Mexico Sunshine Portal and on New Mexico Department of Agriculture's website in Spanish and English.

Copies of the proposed rule were made available at the New Mexico Department of Agriculture Las Cruces main office and on the department's web site.

Notification and the proposed rule were sent to the New Mexico Economic Development's Small Business Regulatory Advisory Commission, and to Legislative Council Service. As of today, New Mexico Department of Agriculture has not received findings from either. Notice of public hearing was sent to all current commercial feed registrants.

The hearing officer provided the following information for my consideration. I agree with the hearing officer's recommendation and thereby recommend the following for your consideration.

HEARING OFFICER'S REPORT

This memorandum represents the summary of the hearings held at the beginning of August. The content is provided for your consideration and a decision tool for you to present a recommendation to the New Mexico State University Board of Regents for its adoption of the proposed Repeal and Replacement of Title 21, Chapter 18, Part 3 of the New Mexico Administrative Code (21.18.3 NMAC, Commercial Feeds).

Primary statutory elements contained in the proposed Commercial Feeds replacement rule include the following (as presented by Agricultural Production Services Division staff):

> The proposed rule repeals and replaces the existing Commercial Feeds Rule to establish a modernized regulatory framework that is more consistent with current industry standards and more closely aligned with nationally recognized model regulations developed by the Association of American Feed Control Officials (AAFCO). Aligning New Mexico's regulations with these nationally recognized standards will promote greater consistency in the administration and enforcement of the Commercial Feed Act, facilitate compliance with applicable state and federal labeling requirements, reduce unnecessary regulatory burdens on regulated entities, and support the efficient interstate distribution of commercial feed and pet food products while maintaining appropriate consumer and animal health protections.

During the review period, Deputy General Counsel provided recommended changes to the definitions of Veterinary Diet and Prescription Diet. These changes were non-substantive and are incorporated in the attached final version of the proposed rule.

The hearing officer, based upon the comments and hearing outcomes, suggests adoption of the 21.18.3 NMAC Commercial Feeds replacement in full with the inclusion of Deputy General Counsel's suggested modification to the definition of Veterinary Diet and Prescription Diet.

Initial Proposed Rule

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 18 SEEDS, FEEDS, AND FERTILIZERS
PART 3 COMMERCIAL FEEDS

21.18.3.1 ISSUING AGENCY: New Mexico State University, New Mexico Department of Agriculture.
[21.18.3.1 NMAC - Rp, 21.18.3.1 NMAC, ~~9/30/2013~~X/XX/XXXX]
[MSC 3189, Box 30005, Las Cruces, New Mexico 88003-8005, Telephone No. (575) 646-3007]

21.18.3.2 SCOPE: Part 3 shall apply to any person distributing commercial feeds in New Mexico.
[21.18.3.2 NMAC - Rp, 21.18.3.2 NMAC, ~~9/30/2013~~X/XX/XXXX]

21.18.3.3 STATUTORY AUTHORITY: Granted to the board of regents of New Mexico state university under the New Mexico Commercial Feed Act, Chapter 76, Article 19A, Sections 1 through 17, New Mexico Statutes Annotated 1978.
[21.18.3.3 NMAC - Rp, 21.18.3.3 NMAC, ~~9/30/2013~~X/XX/XXXX]

21.18.3.4 DURATION: Permanent.
[21.18.3.4 NMAC - Rp, 21.18.3.4 NMAC, ~~9/30/2013~~X/XX/XXXX]

21.18.3.5 EFFECTIVE DATE: ~~September 30, 2013~~Month, Day, Year, unless a later date is cited at the end of a section.
[21.18.3.5 NMAC - Rp, 21.18.3.5 NMAC, ~~9/30/2013~~X/XX/XXXX]

21.18.3.6 OBJECTIVE: The objective of Part 3 of Chapter 18 is to protect the consumers of commercial feed products by establishing standards for their labeling, registration, and sale.
[21.18.3.6 NMAC - Rp, 21.18.3.6 NMAC, ~~9/30/2013~~X/XX/XXXX]

21.18.3.7 DEFINITIONS:

A. The names and definitions for commercial feeds shall be the official definition of feed ingredients adopted by the association of American feed control officials, except as the department designates otherwise in specific cases.

B. The terms used in reference to commercial feeds shall be the official feed terms adopted by the association of American feed control officials, except as the department designates otherwise in specific cases.

C. The following commodities are hereby declared exempt from the definition of commercial feed, under the provisions of Section 76-19A-5A NMSA 1978: raw meat and loose salt when unground and when not mixed or intermixed with other materials: provided that these commodities are not adulterated within the meaning of Section 76-19A-8 NMSA 1978.

D. The definitions in Section 76-19A-2 NMSA 1978 shall apply in addition to the following:

(1) Principal display panel means the part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

(2) Ingredient statement means a collective and contiguous listing on the label of the ingredients of which the pet food or specialty pet food is composed.

(3) Immediate container means the unit, can, box, tin, bag, or other receptacle or covering in which a pet food or specialty pet food is displayed for sale to retail purchasers, but does not include containers used as shipping containers.

(4) All life stages means gestation/lactation, growth, and adult maintenance life stages for dogs, cats, and other mammals or adult (including breeding animals) and juvenile life stages for non-mammalian species.

(5) Family means a group of products, which are nutritionally adequate for any or all life stages based on their nutritional similarity to a lead product, which has been successfully test-fed according to an association of American feed control officials feeding protocol(s).

~~**E.**~~ **(6)** Daily food means a specialty pet food product, other than a treat, food mixer or food supplement, for specialty pet species with no recognized nutritional authority.

(7) Familiar household unit means a typical feeding unit in volume or count (e.g., can, measuring cup, treat, or piece).

(8) Food mixer means a pet or specialty pet food product that is intended to top, accompany,

or contribute to a complete diet but is not generally intended to be a complete diet.

(9) Food supplement means a pet or specialty pet food product that is intended to supply specific nutrient(s) or other food components but is not a complete diet.

(10) Pet nutrition facts means a graphic box located on the label containing nutritional information for a pet food product.

(11) Specialty pet nutrition facts means a graphic box located on the label containing nutritional information for a specialty pet food product.

(12) Veterinary diet means a pet or specialty pet food product that is intended to be used under veterinary supervision only.

(13) Raw milk means any milk or milk product, exclusive of USDA licensed veterinary biologics, from any species other than humans, that has not been pasteurized in accordance with processes recognized by the US food and drug administration.

(14) Prescription diet means a feed that is made available to the public only through a licensed veterinarian or through the retail or internet sales to individuals purchasing the product under the direction of a veterinarian.

~~F~~E. Department means the New Mexico department of agriculture.

[21.18.3.7 NMAC - Rp, 21.18.3.7 NMAC, ~~9/30/2013; A 1/1/2021~~X/XX/XXXX]

21.18.3.8 LABEL FORMAT:

A. Commercial feed, other than customer-formula feed, shall be labeled with the information prescribed in this regulation on the principal display panel of the product and in the following format:

(1) product name and brand name, if any, as stipulated in Subsection A of 21.18.3.9 NMAC;

(2) if a drug is used, label as stipulated in Subsection B of 21.18.3.9 NMAC;

(3) purpose statement as stipulated in Subsection C of 21.18.3.9 NMAC;

(4) guaranteed analysis as stipulated in Subsection D of 21.18.3.9 NMAC;

(5) feed ingredients as stipulated in Subsection E of 21.18.3.9 NMAC and in 21.18.3.12 NMAC;

(6) directions for use and precautionary statements as stipulated in Subsection F of 21.18.3.9 NMAC and in 21.18.3.13 NMAC;

(7) name and principal mailing address of the manufacturer or person responsible for distributing the feed as stipulated in Subsection G of 21.18.3.9 NMAC;

(8) quantity statement.

B. ~~**PRINCIPAL DISPLAY PANEL**~~Principal display panel**:**

(1) The information as required in Paragraphs (1), (2), (3), and (8) of Subsection A of 21.18.3.8 NMAC must appear in its entirety on the principal display panel.

(2) The information required by Paragraphs (4), (5), (6), and (7) of Subsection A of 21.18.3.8 NMAC shall be displayed in a prominent place on the feed tag or label, but not necessarily on the principal display panel. When a precautionary statement required by Paragraph (6) of Subsection A of 21.18.3.8 NMAC does not appear on the principal display panel, it must be referenced on the principal display panel with a statement such as "See back of label for precautions."

C. None of the information required by 21.18.3.8 NMAC shall be subordinated or obscured by other statements or designs.

D. Customer-formula feed shall be accompanied with the information prescribed in this regulation using labels, invoice, delivery ticket, or other shipping document bearing the following information:

(1) the name and address of the manufacturer;

(2) the name and address of the purchaser;

(3) the date of sale or delivery;

(4) the customer-formula feed name and brand name if any;

(5) the product name and net quantity of each registered commercial feed and each other ingredient used in the mixture;

(6) the direction for use and precautionary statements as required by 21.18.3.13 NMAC and 21.18.3.14 NMAC.

(7) If a drug containing product is used:

(a) the purpose of the medication (claim statement);

(b) the established name of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with Subsection D of 21.18.3.10 NMAC.

[21.18.3.8 NMAC - Rp, 21.18.3.~~9 & 10~~8 NMAC, ~~9/30/2013~~X/XX/XXXX]

21.18.3.9 LABEL INFORMATION: Commercial feed, other than customer-formula feed, shall be labeled with the information prescribed in this regulation.

A. Product name and brand name, if any.

(1) The brand or product name must be appropriate for the intended use of the feed and must not be misleading. If the name indicates the feed is made for a specific use, the character of the feed must conform therewith. A commercial feed for a particular animal class must be suitable for that purpose.

(2) Commercial, registered brand, or trade names are not permitted in guarantees or ingredient listings and only in the product name of feeds produced by or for the firm holding the rights to such a name.

(3) The name of a commercial feed shall not be derived from one or more ingredients of a mixture to the exclusion of other ingredients and shall not be one representing any components of a mixture unless all components are included in the name: Provided that if any ingredient or combination of ingredients is intended to impart a distinctive characteristic to the product which is of significance to the purchaser, the name of that ingredient or combination of ingredients may be used as a part of the brand name or product name if the ingredients or combination of ingredients is quantitatively guaranteed in the guaranteed analysis, and the brand or product name is not otherwise false or misleading.

(4) The word "protein" shall not be permitted in the product name of a feed that contains added non-protein nitrogen.

(5) When the name carries a percentage value, it shall be understood to signify protein or equivalent protein content only, even though it may not explicitly modify the percentage with the word "protein": provided that other percentage values may be permitted if they are followed by the proper description and conform to good labeling practice. Digital numbers shall not be used in such a manner as to be misleading or confusing to the customer.

(6) Single ingredient feeds shall have a product name in accordance with the designated definition of feed ingredients as recognized by the association of American feed control officials unless the department designates otherwise.

(7) The word "vitamin," or a contraction thereof, or any word suggesting vitamin can be used only in the name of a feed which is represented to be a vitamin supplement, and which is labeled with the minimum content of each vitamin declared, as specified in Subsection C of 21.18.3.10 NMAC.

(8) The term "mineralized" shall not be used in the name of a feed except for "TRACE MINERALIZED SALT." When so used, the product must contain significant amounts of trace minerals, which are recognized as essential for animal nutrition.

(9) The term "meat" and "meat by-products" shall be qualified to designate the animal from which the meat and meat by-products is derived unless the meat and meat by-products are made from cattle, swine, sheep and goats.

(10) If the commercial feed consists of raw milk, the words “Raw (blank) Milk” shall appear conspicuously on the principal display panel. (Blank is to be completed by using the species of animal from which the raw milk is collected.)

B. If a drug is used:

(1) The word "medicated" shall appear directly following and below the product name in type size no smaller than one-half the type size of the product name.

(2) Purpose statement as required in Subsection C of 21.18.3.9 NMAC.

(3) The purpose of medication (claim statement).

(4) An active ingredient statement listing the active drug ingredients by their established name and the amounts in accordance with Subsection D of 21.18.3.10 NMAC.

C. Purpose statement:

(1) The statement of purpose shall contain the specific species and animal class(es) for which the feed is intended as defined in Subsection D of 21.18.3.9 NMAC.

(2) The manufacturer shall have flexibility in describing in more specific and common language the defined animal class, species, and purpose while being consistent with the category of animal class defined in Subsection D of 21.18.3.9 NMAC which may include, but is not limited to, weight range(s), sex, or ages of the animal(s) for which the feed is manufactured.

(3) The purpose statement may be excluded from the label if the product name includes a description of the species and animal class(es) for which the product is intended.

(4) The purpose statement of a premix for the manufacture of feed may exclude the animal class and species and state "For Further Manufacture of Feed" if the nutrients contained in the premix are guaranteed and sufficient for formulation into various animal species feeds and premix specifications are provided by the end user of the premix. (This section applicable to commercial feeds regulated under Item (x) of Subparagraph (b) of Paragraph (11) of Subsection D of 21.18.3.9 NMAC.

(5) The purpose statement of a single purpose ingredient blend, such as a blend of animal protein products, milk products, fat products, roughage products, or molasses products may exclude the animal class and species and state "For Further Manufacture of Feed" if the label guarantees of the nutrients contained in the single purpose nutrient blend are sufficient to provide for formulation into various animal species feeds. (This section applicable to commercial feeds regulated under Item (x) of Subparagraph (b) of Paragraph (11) of Subsection D of 21.18.3.9 NMAC.)

(6) The purpose statement of a product shall include a statement of enzyme functionality if enzymatic activity is represented in any manner.

(7) The statement of purpose for single ingredient feeds shall be stated as "single ingredient feed" or "feed ingredient." The manufacturer of a single ingredient feed or feed ingredient shall have flexibility in describing in more specific and common language the intended use of the feed ingredient dependent on species and class.

(8) The purpose statement of a feed intended as a treat for a designated species (exclusive of pets and specialty pets) shall include the words "treat" or "snack" and the intended species conspicuously on the principal display panel.

D. Guarantees - crude protein, equivalent crude protein from non-protein nitrogen, amino acids, crude fat, crude fiber, acid detergent fiber, calcium, phosphorus, salt, and sodium shall be the sequence of nutritional guarantees when such guarantee is stated. Other required and voluntary guarantees should follow in a general format such that the units of measure used to express guarantees (percentage, parts per million, international units, etc.) are listed in a sequence that provides a consistent grouping of the units of measure.

(1) Required guarantees for swine formula feeds.

(a) animal classes:

(i) pre-starter - 2 to 11 pounds;

(ii) starter - 11 to 44 pounds;

(iii) grower - 44 to 110 pounds;

(iv) finisher - 110 to market weight;

(v) gilts, sows, and adult boars;

(vi) lactating gilts and sows;

(b) guaranteed analysis for swine complete feeds and supplements (all animal classes):

(i) minimum percentage of crude protein;

(ii) minimum percentage of lysine;

(iii) minimum percentage of crude fat;

(iv) maximum percentage of crude fiber;

(v) minimum and maximum percentage of calcium;

(vi) minimum percentage of phosphorus;

(vii) minimum and maximum percentage of salt (if added);

(viii) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;

(ix) minimum selenium in parts per million (ppm);

(x) minimum zinc in parts per million (ppm).

(2) Required guarantees for formula poultry feeds (broilers, layers, and turkeys).

(a) animal classes:

(i) layer - chickens that are grown to produce eggs for food, e.g., table eggs: 1) starting/growing - from day of hatch to approximately 10 weeks of age; 2) finisher - from approximately 10 weeks of age to time first egg is produced. (approximately 20 weeks of age); 3) laying - from time first egg is laid throughout the time of egg production; 4) breeders - chickens that produce fertile eggs for hatch replacement layers to produce eggs for food, table eggs, from time first egg is laid throughout their productive cycle;

(ii) broilers - chickens that are grown for human food: 1) starting/growing - from day of hatch to approximately 5 weeks of age; 2) finisher - from approximately 5 weeks of age to market, (42 to 52 days); 3) breeders - hybrid strains of chickens whose offspring are grown for human food, (broilers), any age

and either sex;

(iii) broilers, breeders - chickens whose offspring are grown for human food (broilers): 1) starting/growing - from day of hatch until approximately 10 weeks of age; 2) finishing - from approximately 10 weeks of age to time first egg is produced, approximately 20 weeks of age; 3) laying - fertile egg producing chickens (broilers/roasters) from day of first egg throughout the time fertile eggs are produced;

(iv) turkeys: 1) starting/growing - turkeys that are grown for human food from day of hatch to approximately 13 weeks of age (females) and 16 weeks of age (males); 2) finisher - turkeys that are grown for human food, females from approximately 13 weeks of age to approximately 17 weeks of age and males from 16 weeks of age to 20 weeks of age (or desired market weight); 3) laying - female turkeys that are producing eggs from time first egg is produced throughout the time they are producing eggs; 4) breeder - turkeys that are grown to produce fertile eggs from day of hatch to time first egg is produced (approximately 30 weeks of age), both sexes;

(b) guaranteed analysis for poultry complete feeds and supplements (all animal classes):

(i) minimum percentage of crude protein;

(ii) minimum percentage of lysine;

(iii) minimum percentage of methionine;

(iv) minimum percentage of crude fat;

(v) maximum percentage of crude fiber;

(vi) minimum and maximum percentage of calcium;

(vii) minimum percentage of phosphorus;

(viii) minimum and maximum percentage of salt (if added);

(ix) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.

(3) Required guarantees for beef cattle formula feeds.

(a) animal classes:

(i) calves (birth to weaning);

(ii) cattle on pasture (may be specific as to production stage; e.g. stocker, feeder, replacement heifers, brood cows, bulls, etc.);

(iii) feedlot cattle;

(b) guaranteed analysis for beef complete feeds and supplements (all animal classes):

(i) minimum percentage of crude protein;

(ii) maximum percentage of equivalent crude protein from non-protein nitrogen (NPN) when added;

(iii) minimum percentage of crude fat;

(iv) maximum percentage of crude fiber;

(v) minimum and maximum percentage of calcium;

(vi) minimum percentage of phosphorus;

(vii) minimum and maximum percentage of salt (if added);

(viii) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;

(ix) minimum percentage of potassium;

(x) minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added);

(c) guaranteed analysis for beef mineral feeds (if added):

(i) minimum and maximum percentage calcium;

(ii) minimum percentage of phosphorus;

(iii) minimum and maximum percentage of salt;

(iv) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;

(v) minimum percentage of magnesium;

(vi) minimum percentage of potassium;

(vii) minimum copper in parts per million (ppm);

(viii) minimum selenium in parts per million (ppm);

(ix) minimum zinc in parts per million (ppm);

(x) minimum vitamin A, other than precursors of vitamin A, in international units per pound.

(4) Required guarantees for dairy formula feeds.

(a) animal classes:

(i) veal milk replacer - milk replacer to be fed for veal production;

(ii) herd milk replacer - milk replacer to be fed for herd replacement calves;

(iii) starter - approximately 3 days to 3 months;

(iv) ~~growing~~non-lactating dairy cattle: replacement dairy heifers, dairy bulls and dairy ~~beef: 1) grower 1 - 3 months to 12 months of age; 2) grower 2 - more than 12 months of age;~~calves

(v) lactating dairy cattle;

(vi) non-lactating dairy cattle;

(b) guaranteed analysis for veal and herd replacement milk replacer:

(i) minimum percentage crude protein;

(ii) minimum percentage crude fat;

(iii) maximum percentage of crude fiber;

(iv) minimum and maximum percentage calcium;

(v) minimum percentage of phosphorus;

(vi) minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added);

(c) guaranteed analysis for dairy cattle complete feeds and supplements:

(i) minimum percentage of crude protein;

(ii) maximum percentage of equivalent crude protein from non-protein nitrogen (NPN) when added;

(iii) minimum percentage of crude fat;

(iv) maximum percentage of crude fiber;

(v) maximum percentage of acid detergent fiber (ADF);

(vi) minimum and maximum percentage of calcium;

(vii) minimum percentage of phosphorus;

(viii) minimum selenium in parts per million (ppm);

(ix) minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added);

(d) required guaranteed analysis for dairy mixing and pasture mineral (if added):

(i) minimum and maximum percentage of calcium;

(ii) minimum percentage of phosphorus;

(iii) minimum and maximum percentage of salt;

(iv) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;

(v) minimum percentage of magnesium;

(vi) minimum percentage of potassium;

(vii) minimum selenium in parts per million (ppm);

(viii) minimum vitamin A, other than the precursors of vitamin A, in international units per pound.

(5) Required guarantees for equine formula feeds.

(a) animal classes:

(i) ~~foal~~growing;

(ii) ~~mare~~broodmare;

(iii) ~~breeding;~~

~~**(iv)** maintenance;~~

(iv) performance (including stallions);

(b) guaranteed analysis for equine complete feeds and supplements (all animal classes):

(i) minimum percentage of crude protein;

(ii) minimum percentage of crude fat;

(iii) maximum percentage of crude fiber;

(iv) ~~minimum and~~ maximum percentage of ~~calcium;~~acid detergent fiber

(adf)

(v) ~~minimum~~maximum percentage of ~~phosphorus;~~neutral detergent fiber (ndf)

(vi) minimum and maximum percentage of calcium;

(vii) minimum percentage of phosphorus;

(viii) minimum copper in parts per million (ppm);

(~~viii~~ix) minimum selenium in parts per million (ppm);

(~~viiix~~x) minimum zinc in parts per million (ppm);

(~~ix~~xi) minimum vitamin A, other than the precursors of vitamin A, in international units per pound (if added).

(c) guaranteed analysis for equine mineral feeds (all animal classes):

(i) minimum and maximum percentage of calcium;

(ii) minimum percentage of phosphorus;

(iii) minimum and maximum percentage of salt (if added);

(iv) minimum and maximum percentage of sodium shall be guaranteed only when the total sodium exceeds that furnished by the maximum salt guarantee;

(v) minimum copper in parts per million (ppm);

(vi) minimum selenium in parts per million (ppm);

(vii) minimum zinc in parts per million (ppm);

(viii) minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).

(6) Required guarantees for goat formula feeds.

(a) animal classes:

(i) starter;

(ii) grower;

(iii) finisher;

(iv) breeder;

(v) lactating;

(b) guaranteed analysis for goat complete feeds and supplements (all animal classes):

(i) minimum percentage of crude protein;

(ii) maximum percentage of equivalent crude protein from non-protein nitrogen (NPN) when added;

(iii) minimum percentage of crude fat;

(iv) maximum percentage of crude fiber;

(v) ~~minimum and~~ maximum percentage of ~~calcium;~~acid detergent fiber

(vi) minimum and maximum percentage of calcium;

(vii) minimum percentage of phosphorus;

(~~vii~~) ~~minimum and maximum percentage of salt (if added);~~

(viii) minimum and maximum percentage of salt (if added);

(ix) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;

(~~ix~~x) minimum and maximum copper in parts per million (ppm) (if added);

(~~x~~xi) minimum selenium in parts per million (ppm);

(~~xi~~xii) minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).

(7) Required guarantees for sheep formula feeds:

(a) animal classes:

(i) starter;

(ii) grower;

(iii) finisher;

(iv) breeder;

(v) lactating;

(b) guaranteed analysis for sheep complete feeds and supplements (all animal classes):

(i) minimum percentage of crude protein;

(ii) maximum percentage of equivalent crude protein from non-protein nitrogen (NPN) when added;

(iii) minimum percentage of crude fat;

(iv) maximum percentage of crude fiber;

(v) minimum and maximum percentage of calcium;

(vi) minimum percentage of phosphorus;

(vii) minimum and maximum percentage of salt (if added);

(viii) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;

(ix) minimum and maximum copper in parts per million (ppm) (if added, or if total copper exceeds 20 ppm);

(x) minimum selenium in parts per million (ppm);

(xi) minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).

(8) Required guarantees for duck and geese formula feeds.

(a) animal classes:

(i) ducks: 1) starter - 0 to 3 weeks of age; 2) grower - 3 to 6 weeks of age; 3) finisher - 6 weeks to market; 4) breeder developer - 8 to 19 weeks of age; 5) breeder - 22 weeks to end of lay;

(ii) geese: 1) starter - 0 to 4 weeks of age; 2) grower - 4 to 8 weeks of age; 3) finisher - 8 weeks to market; 4) breeder developer - 10 to 22 weeks of age; 5) breeder - 22 weeks to end of lay.

(b) guaranteed analysis for duck and geese complete feeds and supplements (for all animal classes):

(i) minimum percentage of crude protein;

(ii) minimum percentage of crude fat;

(iii) maximum percentage of crude fiber;

(iv) minimum and maximum percentage of calcium;

(v) minimum percentage of phosphorus;

(vi) minimum and maximum percentage of salt (if added);

(vii) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.

(9) Required guarantees for fish complete feeds and supplements.

(a) animal species shall be declared in lieu of animal class:

(i) trout;

(ii) catfish;

(iii) species other than trout or catfish;

(b) guaranteed analysis for all fish complete feeds and supplements:

(i) minimum percentage of crude protein;

(ii) minimum percentage of crude fat;

(iii) maximum percentage of crude fiber;

(iv) minimum percentage of phosphorus.

(10) Required guarantees for rabbit complete feeds and supplements.

(a) animal classes:

(i) grower - 4 to 12 weeks of age;

(ii) breeder - 12 weeks of age and over;

(b) guaranteed analysis for rabbit complete feeds and supplements (all animal classes):

(i) minimum percentage of crude protein;

(ii) minimum percentage of crude fat;

(iii) minimum and maximum percentage of crude fiber (the maximum crude fiber shall not exceed the minimum by more than 5.0 units);

(iv) minimum and maximum percentage of calcium;

(v) minimum percentage of phosphorus;

(vi) minimum and maximum percentage of salt (if added);

(vii) minimum and maximum percentage of total sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee;

(viii) minimum vitamin A, other than precursors of vitamin A, in

international units per pound (if added).

(11) The required guarantees of grain mixtures with or without molasses and feeds other than those described in Paragraphs (1) through (9) of Subsection D of 21.18.3.9 NMAC shall include the following items, unless exempt in Paragraph (12) of Subsection D of 21.18.3.9 NMAC, in the order listed:

(a) animal class(es) and species for which the product is intended.

(b) guaranteed analysis:

(i) minimum percentage crude protein;

(ii) maximum or minimum percentage of equivalent crude protein from non-protein nitrogen as required in Subsection E of 21.18.3.10 NMAC;

(iii) minimum percentage of crude fat;

(iv) maximum percentage of crude fiber;

(v) minerals in formula feeds, to include in the following order: 1) minimum and maximum percentages of calcium; 2) minimum percentage of phosphorus; 3) minimum and maximum percentage of salt (if added); 4) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee; 5) other minerals;

(vi) minerals in feed ingredients - as specified by the official definitions of the association of American feed control officials;

(vii) vitamins in such terms as specified in Subsection C of 21.18.3.10 NMAC;

(viii) total sugars as invert on dried molasses products or products being sold primarily for their sugar content;

(ix) viable lactic acid producing microorganisms for use in silages in terms specified in Subsection G of 21.18.3.10 NMAC;

(x) a commercial feed (e.g. vitamin/mineral premix, base mix, etc.) intended to provide a specialized nutritional source for use in the manufacture of other feeds, must state its intended purpose and guarantee those nutrients relevant to such stated purpose.

~~**(12**~~ **(12)** Required guarantees for treats (all animal classes and species, exclusive of pets and specialty pets):

(a) Minimum percentage of crude protein

(b) Minimum percentage of crude fat

(c) Maximum percentage of crude fiber

(d) Other guarantees, as needed to support nutrient content claims in the labeling as per Paragraph (3) of Section 76-19A-9A NMSA 1978, and in accordance with terminology, order of guarantees and units of expression as specified in Subsection D of 21.18.3.9 NMAC and 21.18.3.10 NMAC

(13) Exemptions.

(a) A mineral guarantee for feed, excluding those feeds manufactured as complete feeds and for feed supplements intended to be mixed with grain to produce a complete feed for swine, poultry, fish, and veal and herd milk replacers, is not required when:

(i) the feed or feed ingredient is not intended or represented or does not serve as a principal source of that mineral to the animal; or

(ii) the feed or feed ingredient is intended for non-food producing animals and contains less than ~~6.5%~~six and one-half percent total mineral.

(b) Guarantees for vitamins are not required when the commercial feed is neither formulated for nor represented in any manner as a vitamin supplement.

(c) Guarantees for crude protein, crude fat, and crude fiber are not required when the commercial feed is intended for purposes other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, such as drug premixes, mineral or vitamin supplements, and molasses.

(d) Guarantees for microorganisms are not required when the commercial feed is intended for a purpose other than to furnish these substances or they are of minor significance relating to the primary purpose of the product and no specific label claims are made.

(e) The indication for animal class(es) and species is not required on single ingredient products if the ingredient is not intended, represented, or defined for a specific animal class(es) or species.

E. Feed ingredients, collective terms for the grouping of feed ingredients, or appropriate statements as provided under the provisions of Subsection 4 of Section 76-19A-9A NMSA 1978.

(1) The name of each ingredient as defined in the official publication of the association of American feed control officials, common or usual name, or one approved by the department.

(2) Collective terms for the grouping of feed ingredients as defined in the official definitions of feed ingredients published in the official publication of the association of American feed control officials in lieu of the individual ingredients; provided that:

(a) when a collective term for a group of ingredients is used on the label, individual ingredients within that group shall not be listed on the label;

(b) the manufacturer shall provide the feed control official, upon request, with a list of individual ingredients, within a defined group, that are or have been used at manufacturing facilities distributing in or into the state.

(3) The registrant may affix the statement, "ingredients as registered with the state" in lieu of ingredient list on the label. The list of ingredients must be on file with the department. This list shall be made available to the feed purchaser upon request.

F. Directions for use and precautionary statements or reference to their location if the detailed feeding directions and precautionary statements required by 21.18.3.13 NMAC and 21.18.3.14 NMAC appear elsewhere on the label.

G. Name, city, state, and zip code of the manufacturer or person responsible for distributing the feed.

H. Quantity statement.

(1) Net quantity shall be declared in terms of weight, liquid measure, or count based on applicable requirements under the Fair Packaging and Labeling Act (Title 15 U.S.C. 1453).

(2) Net quantity labeled in terms of weight shall be expressed both in pounds, with any remainder in terms of ounces or common or decimal fractions of the pound and in appropriate Si metric system units; or in the case of liquid measure, both in the largest whole unit (quarts, quarts and pints, or pints, as appropriate) with any remainder in terms of fluid ounces or common or decimal fractions of the pint of quart and in appropriate Si metric system units.

(3) When the declaration of quantity of contents by count does not give adequate information as to the quantity of feed in the container, it shall be combined with such statement of weight, liquid measure, or size of the individual units as will provide such information.

[21.18.3.9 NMAC - Rp, 21.18.3.9 ~~& 10~~ NMAC, ~~9/30/2013; A, 1/1/2021~~X/XX/XXXX]

21.18.3.10 EXPRESSION OF GUARANTEES:

A. The guarantees for crude protein, equivalent crude protein from non-protein nitrogen, lysine, methionine, other amino acids, crude fat, crude fiber, and acid detergent fiber shall be in terms of percentage.

B. Mineral guarantees

(1) When the calcium, salt, and sodium guarantees are given in the guaranteed analysis, such shall be stated and conform to the following:

(a) When the minimum is below ~~2.5%,~~two and a half percent the maximum shall not exceed the minimum by more than 0.5 percentage point.

(b) When the minimum is ~~2.5%~~two and a half percent but less than ~~5.0%,~~five percent the maximum shall not exceed the minimum by more than one percentage point.

(c) When the minimum is above ~~5.0%~~five percent or greater, the maximum shall not exceed the minimum by more than ~~20%~~twenty percent of the minimum and in no case shall the maximum exceed the minimum by more than five percentage points.

(2) When stated, guarantees for minimum and maximum total sodium and salt: minimum potassium, magnesium, sulfur, phosphorus, and maximum fluorine shall be in terms of percentage. Other minimum mineral guarantees shall be stated in parts per million (ppm) when the concentration is less than 10,000 ppm and in percentage when the concentration is 10,000 ppm (~~1%~~)one percent) or greater.

(3) Products labeled with a quantity statement (e.g., tablets, capsules, granules, or liquid) may state mineral guarantees in milligrams (mg) per unit (e.g., tablets, capsules, granules, or liquids) consistent with the quantity statement and directions for use.

C. Guarantees for minimum vitamin content of commercial feeds shall be listed in the order specified and are stated in mg/lb or in units consistent with those employed for the quantity statement unless otherwise specified:

(1) vitamin A, other than precursors of vitamin A, in international units per pound.

(2) vitamin D-3 in products offered for poultry feeding, in international chick units per pound.

(3) vitamin D for other uses, international units per pound.

(4) vitamin E, in international units per pound.

(5) concentrated oils and feed additive premixes containing vitamins A, D or E may, at the option of the distributor, be stated in units per gram instead of units per pound.

(6) vitamin B-12, in milligrams or micrograms per pound.

(7) all other vitamin guarantees shall express the vitamin activity in milligrams per pound in terms of the following: menadione; riboflavin; d-pantothenic acid; thiamine; niacin; vitamin B-6; folic acid; choline; biotin; inositol; p-amino benzoic acid; ascorbic acid; and carotene.

(8) Products labeled with a quantity statement (e.g., tablets, capsules, granules, or liquid) may state vitamin guarantees in milligrams per unit (e.g., tablets, capsules, granules, or liquids) consistent with the quantity statement and directions for use.

D. Guarantees for drugs shall be stated in terms of percent by weight, except:

(1) antibiotics, present at less than 2,000 grams per ton (total) of commercial feed shall be stated in grams per ton of commercial feed;

(2) antibiotics present at 2,000 or more grams per ton (total) of commercial feed, shall be stated in grams per pound of commercial feed;

(3) the term "milligrams per pound" may be used for drugs or antibiotics in those cases where a dosage is given in "milligrams" in the feeding directions.

E. Commercial feeds containing any added non-protein nitrogen shall be labeled as follows:

(1) For ruminants

(a) Complete feeds, supplements, and concentrates containing added non-protein nitrogen and containing more than ~~5%~~five percent protein from natural sources shall be guaranteed as follows:

(i) crude protein, minimum, _____ %

(ii) This includes not more than _____ % equivalent crude protein from non-protein nitrogen.

(b) Mixed feed concentrates and supplements containing less than ~~5%~~five percent protein from natural sources may be guaranteed as follows:
equivalent crude protein from non-protein nitrogen, minimum, _____ %

(c) Ingredient sources of non-protein nitrogen such as urea, diammonium phosphate, ammonium polyphosphate solution, ammoniated rice hulls, or other basic non-protein nitrogen ingredients defined by the association of American feed control officials shall be guaranteed as follows:

(i) nitrogen, minimum, ____ %

(ii) equivalent crude protein from non-protein nitrogen, minimum, ____ %

(2) For non-ruminants

(a) Complete feeds, supplements, and concentrates containing crude protein from all forms of non-protein nitrogen, added as such, shall be labeled as follows:

(i) crude protein, minimum _____ %

(ii) this includes not more than _____ % equivalent crude protein which is not nutritionally available to (species of animal for which feed is intended.

(b) Premixes, concentrates, or supplements intended for non-ruminants containing more than ~~1.25%~~one and one-quarter percent equivalent crude protein from all forms of non-protein nitrogen, added as such, must contain adequate directions for use and a prominent statement: "**WARNING: This feed must be used only in accordance with directions furnished on the label**.

F. Mineral phosphatic materials for feeding purposes shall be labeled with the guarantee for minimum and maximum percentage of calcium (when present), the minimum percentage of phosphorus, and the maximum percentage of fluorine.

G. Guarantees for microorganisms shall be stated in colony forming units per gram (CFU/g) when directions are for using the product in grams or in colony forming units per pound (CFU/lb) when directions are for using the product in pounds. A parenthetical statement following the guarantee shall list each species in order of predominance.

H. Guarantees for enzymes shall be stated in units of enzymatic activity per unit weight or volume, consistent with label directions. The source organism for each type of enzymatic activity shall be specified, such as: protease (bacillus subtilis) 5.5 mg amino acids liberated/min./milligram. If two or more sources have the same type of activity, they shall be listed in order of predominance based on the amount of enzymatic activity provided.

I. Guarantees for dietary starch, sugars, and fructans for Commercial Feeds, other than customer-formula feed, Pet Food and Specialty Pet Food Products:

(1) A commercial feed which bears on its labeling a claim in any manner for levels of "dietary starch," "sugars," "fructans," or words of similar designation, shall include on the label:

(a) guarantees for maximum percentage of dietary starch and maximum percentage sugars, in the Guaranteed Analysis section immediately following the last fiber guarantee;

(b) a maximum percentage guarantee for fructans immediately following sugars, if the feed contains forage products.

(2) When such guarantees for dietary starch, sugars or fructans for commercial feeds appear on the label, feeding directions shall indicate the proper use of the feed product and a recommendation to consult with a veterinarian or nutritionist for a recommended diet.

[21.18.3.10 NMAC - Rp, 21.18.3.~~11~~10 NMAC, ~~9/30/2013; A, 1/1/2021~~X/XX/XXXX]

21.18.3.11 SUBSTANTIATION OF NUTRITIONAL SUITABILITY:

A. A commercial feed, other than a customer-formula feed, shall be nutritionally suitable for its intended purpose as represented by its labeling.

B. If the department has reasonable cause to believe a commercial feed is not nutritionally suitable, the department may request the feed manufacturer to either submit an "Affidavit of Suitability" or an alternative procedure acceptable to the department, certifying the nutritional adequacy of the feed. The affidavit of suitability or alternate procedure of suitability shall serve as substantiation of the suitability of the feed.

C. If an affidavit of suitability or alternative procedure acceptable to the department is not submitted by the feed manufacturer within 30 days of written notification, the department may deem the feed adulterated in accordance with Section 76-19A-8M NMSA 1978 and order the feed removed from the marketplace.

D. The affidavit of suitability shall contain the following information:

(1) the feed company's name;

(2) the feed's product name;

(3) the name and title of the affiant submitting the document;

(4) a statement that the affiant has knowledge of the nutritional content of the feed and based on valid scientific evidence the feed is nutritionally adequate for its intended purpose;

(5) the date of submission; and,

(6) the signature of the affiant notarized by a certified notary public.

[21.18.3.11 NMAC - ~~N, 9/30/2013~~Rp, 21.18.3.11 NMAC, X/XX/XXXX]

21.18.3.12 INGREDIENTS:

A. The name of each ingredient or collective term for the grouping of ingredients, when required to be listed, shall be the name as defined in the official definitions of feed ingredients as published in the official publication of the association of American feed control officials, the common or usual name, or one approved by the department.

B. The name of each ingredient must be shown in letters or type of the same size.

C. No reference to quality or grade of an ingredient shall appear in the ingredient statement of a feed.

D. The term "dehydrated" may precede the name of any product that has been artificially dried.

E. A single ingredient product defined by the association of American feed control officials is not required to have an ingredient statement.

F. Tentative definitions for ingredients shall not be used until adopted as official, unless no official definition exists or the ingredient has a common accepted name that requires no definition, (i.e. sugar) unless approved by the department.

G. When the word "iodized" is used in connection with a feed ingredient, the feed ingredient shall contain not less than 0.007% iodine, uniformly distributed.

[21.18.3.12 NMAC - Rp, 21.18.3.12 NMAC, ~~9/30/2013~~X/XX/XXXX]

21.18.3.13 DIRECTIONS FOR USE AND PRECAUTIONARY STATEMENTS:

A. Directions for use and precautionary statements on the labeling of all commercial feeds and customer-formula feeds containing additives (including drugs, special purpose additives, or non-nutritive additives) shall:

(1) be adequate to enable safe and effective use for the intended purposes by users with no special knowledge of the purpose and use of such articles; and

(2) include, but not be limited to, all information described by all applicable regulations under the Federal Food, Drug and Cosmetic Act.

B. Adequate directions for use and precautionary statements are required for feeds containing non-protein nitrogen as specified in 21.18.3.14 NMAC.

C. Adequate directions for use and precautionary statements necessary for safe and effective use are required on commercial feeds distributed to supply particular dietary needs or for supplementing or fortifying the usual diet or ration with any vitamin, mineral, or other dietary nutrient or compound.

D. Raw milk distributed as commercial feed shall bear the following statement: "**WARNING: NOT FOR HUMAN CONSUMPTION - THIS PRODUCT HAS NOT BEEN PASTEURIZED AND MAY CONTAIN HARMFUL BACTERIA**." This statement shall be displayed in a conspicuous manner and shall not be smaller than the height of the minimum font required by the Federal Fair Packaging and Labeling Act for the quantity statement as shown in the following table:

Panel Size	Minimum Warning Statement Type Size
≤5 in.^{2}	1/16 in.
>5–≤25 in.^{2}	1/8 in.
>25–≤100 in.^{2}	3/16 in.
>100–≤400 in.^{2}	1/4 in.
>400 in.^{2}	1/2 in.

E. Distribution of raw milk for use as commercial feed for any species shall be decharacterized with food coloring approved by the Federal Food, Drug, and Cosmetic Act, according to 21 CFR §§ 73.1 et seq. and 21 CFR §§ 74.101 et seq. or in the case of raw milk labeled as organic, approved by the US Department of Agriculture;

(1) Not affect nutritive value;

(2) Matches the color on the Color Requirement card. Any person decharacterizing milk and milk products may obtain a Color Requirement card from the New Mexico department of agriculture.

F. Milk or milk products intended for commercial feed shall not be displayed, sold, or stored at premises where food is sold or prepared for human consumption, unless it meets Grade A standards or is decharacterized and properly labeled as required by 21.18.3.8 NMAC.

[21.18.3.13 NMAC - Rp, 21.18.3.13 NMAC, ~~9/30/2013~~X/XX/XXXX]

21.18.3.14 NON-PROTEIN NITROGEN:

A. Urea and other non-protein nitrogen products defined in the official publication of the association of American feed control officials are acceptable ingredients only in commercial feeds for ruminant animals as a source of equivalent crude protein. If the commercial feed contains more than 8.75% of equivalent crude protein from all forms of non-protein nitrogen, added as such, or the equivalent crude protein from all forms of non-protein nitrogen, added as such, exceeds one third of the total crude protein, the label shall bear adequate directions for the safe use of feeds and a precautionary statement: "**CAUTION: USE AS DIRECTED**." The directions for use and the caution statement shall be in type of such size so placed on the label that they will be read and understood by ordinary persons under customary conditions of purchase and use.

B. Non-protein nitrogen ingredients defined in the official publication of the association of American feed control officials, when so indicated, are acceptable ingredients in commercial feeds distributed to non-ruminant animals as a source of nutrients other than equivalent crude protein. The maximum equivalent crude protein from non-protein nitrogen sources when used in non-ruminant rations shall not exceed ~~1.25%~~one and one-quarter percent of the total daily ration.

C. On labels such as those for medicated feeds, which bear adequate feeding directions and warning statements, the presence of added non-protein nitrogen shall not require a duplication of the feeding directions or the precautionary statements as long as those statements include sufficient information to ensure the safe and effective use of this product due to the presence of non-protein nitrogen.

D. Feeding or use directions for those feeds in which more than fifty percent of the protein content is derived from non-protein nitrogen sources should include recommendations as to providing adequate supplies of drinking water, sources of energy, forages being fed, minerals, adaptation ("warm-up") periods and stress conditions when necessary.

[21.18.3.14 NMAC - Rp, 21.18.3.14 NMAC, ~~9/30/2013~~X/XX/XXXX]

21.18.3.15 DRUG AND FEED ADDITIVES:

A. Prior to approval of a registration application or approval of a label for commercial feed which contain additives (including drugs, other special purpose additives, or non-nutritive additives) the distributor may be required to submit evidence to prove the safety and efficacy of the commercial feed when used according to the directions furnished on the label.

B. Satisfactory evidence of safety and efficacy of a commercial feed may be:

(1) when the commercial feed contains such additives, the use of which conforms to the requirements of the applicable regulation in the "Code of Federal Regulations, Title 21", or which are "prior sanctioned" or "informal review sanctioned" or "generally recognized as safe" for such use; or

(2) when the commercial feed is itself a drug as defined in Section 76-19A-2I, NMSA 1978 and is generally recognized as safe and effective for the labeled use or is marketed subject to an application approved by the food and drug administration under Title 21 U.S.C. 360 b; or

(3) when one of the purposes for feeding a commercial feed is to impart immunity (that is to act through some immunological process) the constituents imparting immunity have been approved for the purpose through the Federal Virus, Serum and Toxins Act of 1913, as amended; or

(4) when the commercial feed is a direct fed microbial product and:

(a) the product meets the particular fermentation product definition; and

(b) the microbial content statement, as expressed in the labeling, is limited to the following: "contains a source of live (viable) naturally occurring microorganisms;" this statement shall appear on the label; and

(c) the source is stated with a corresponding guarantee expressed in accordance with Subsection G of 21.18.3.10 NMAC;

(5) when the commercial feed is an enzyme product and:

(a) the product meets the particular enzyme definition defined by the association of American feed control officials; and

(b) the enzyme is stated with a corresponding guarantee expressed in accordance with Subsection H of 21.18.3.10 NMAC.

[21.18.3.15 NMAC - Rp, 21.18.3.15 NMAC, ~~9/30/2013~~X/XX/XXXX]

21.18.3.16 ADULTERANTS:

A. For the purpose of Section 76-19A-8A NMSA 1978, a commercial feed shall be deemed adulterated if:

(1) it bears or contains any added poisonous, deleterious, or non-nutritive substance that is unsafe within the meaning of Section 406 of the federal Food, Drug and Cosmetic Act, other than one that is a pesticide chemical in or on a raw agricultural commodity or a food additive;

(2) it is or it bears or contains any food additive that is unsafe pursuant to Section 409 of the federal Food, Drug and Cosmetic Act;

(3) it is a raw agricultural commodity and it bears or contains a pesticide chemical that is unsafe within the meaning of Section 408 (a) of the federal Food, Drug and Cosmetic Act; provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under Section 408 of that act and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling the residue of the pesticide chemical remaining in or on such processed commercial feed shall not be deemed unsafe if the residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of the residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of such processed feed will result or is likely to result in a pesticide residue in the edible product of the animal that is unsafe within the meaning of Section 408 (a) of the federal Food, Drug and Cosmetic Act;

(4) it is or it bears or contains any color additive that is unsafe within the meaning of Section 721 of the federal Food, Drug and Cosmetic Act;

(5) it is or it bears or contains any new animal drug that is unsafe within the meaning of Section 512 of the federal Food, Drug and Cosmetic Act;

~~**(6**~~ **(6)** it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for feed; or

(7) it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health; or

(8) it is, in whole or in part, the product of a diseased animal or of an animal that has died

otherwise than by slaughter that is unsafe within the meaning of Section 402 (a)(1) or (2) of the federal Food, Drug and Cosmetic Act;

~~(7~~ **(9)** its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or

(10) it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with the regulation or exemption in effect pursuant to Section 409 of the federal Food, Drug and Cosmetic Act;

B. For the purpose of Section 76-19A-8A NMSA 1978, the terms "poisonous or deleterious substances" include, but are not limited to, the following:

(1) Fluorine and any mineral or mineral mixture which is to be used directly for the feeding of domestic animals and in which the fluorine exceeds 0.20% for breeding and dairy cattle; 0.30% for slaughter cattle; 0.30% for sheep; 0.35% for lambs; 0.45% for swine; and 0.60% for poultry.

(2) Fluorine bearing ingredients when used in such amounts that they raise the fluorine content of the total ration (exclusive of roughage) above the following amounts: 0.004% for breeding and dairy cattle; 0.009% for slaughter cattle; 0.006% for sheep; 0.01% for lambs; 0.015% for swine, and 0.03% for poultry.

(3) Fluorine bearing ingredients incorporated in any feed that is fed directly to cattle, sheep or goats consuming roughage with or without limited amounts of grain that results in a daily fluorine intake in excess of 50 milligrams of fluorine per 100 pounds of body weight.

(4) Soybean meal, flakes, or pellets or other vegetable meals, flakes, or pellets which have been extracted with trichloroethylene or other chlorinated solvents.

(5) Sulfur dioxide, sulfurous acid, and salts of sulfurous acid when used in or on feeds or feed ingredients which are considered or reported to be a significant source of vitamin B1 (Thiamine).

(6) Raw leather residue from tanning or leather manufacturing.

C. All screenings or by-products of grains and seeds containing weed seeds, when used in commercial feed or sold as such to the ultimate consumer, shall be ground fine enough or otherwise treated to destroy the viability of such weed seeds so that the finished product complies with 21.18.4.8 NMAC concerning prohibited weed seeds per pound and 21.18.4.9 NMAC concerning viable restricted weed seeds per pound.

[21.18.3.16 NMAC - Rp, 21.18.3.16 NMAC, ~~9/30/2013~~X/XX/XXXX]

21.18.3.17 GOOD MANUFACTURING PRACTICES: For the purposes of enforcement of Section 76-19A-8N NMSA 1978 the board adopts the following as current good manufacturing practices:

A. The regulations prescribing good manufacturing practices for type B and type C medicated feeds as published in the "Code of Federal Regulations, Title 21", Part 225, Sections 225.1 through 225.202.

B. The regulations prescribing good manufacturing practices for type A Medicated Articles as published in the "Code of Federal Regulations, Title 21," Part 226, Sections 226.1 through 226.115.

[21.18.3.17 NMAC - Rp, 21.18.3.17 NMAC, ~~9/30/2013~~X/XX/XXXX]

21.18.3.18 CERTAIN MAMMALIAN PROTEINS PROHIBITED IN RUMINANT FEED:

A. Pursuant to ~~-~~Section 76-19A-8A or 76-19A-8C, NMSA 1978, the board adopts the requirements of "Code of Federal Regulations, Title 21", 589.2000.

B. Pursuant to Section 76-19A-8A or 76-19A-8C, NMSA 1978, the board adopts the requirements of "Code of Federal Regulations, Title 21", 589.2001.

[21.18.3.18 NMAC - ~~N, 9/30/2013~~Rp, 21.18.3.18 NMAC, X/XX/XXXX]

21.18.3.19 PET FOOD AND SPECIALTY PET FOOD LABEL FORMAT AND LABELING:

A. Pet food and specialty pet food shall be labeled with the following information:

(1) product name and brand name, if any, on the principal display panel as stipulated in 21.18.3.20 NMAC;

(2) a statement specifying the ~~species name of pet or specialty pet for which the food is intended, conspicuously designated on the principal display panel~~purpose of the products as stipulated in Subsection A of 21.18.3.21 NMAC;

(3) quantity statement, as defined in Subsection (1) of Section 76-19A-9A NMSA 1978 and Subsection H of 21.18.3.9 NMAC, by weight (pounds and ounces and metric), liquid measure (quarts, pints, and fluid ounces and metric), or by count on the principal display panel;

(4) ~~guaranteed analysis~~pet Nutrition Facts or Specialty Pet Nutrition Facts as ~~stipulated~~specified in 21.18.3.~~21~~22 NMAC;

(5) ingredient statement as ~~stipulated~~specified in Subsection A of 21.18.3.~~22~~23 NMAC;

(6) ~~a statement of nutritional adequacy or purpose, if required, under 21.18.3.24 NMAC;~~

~~**(7)**~~ feeding directions ~~if~~as required ~~under~~in 21.18.3.25 NMAC; ~~and~~

(~~8~~7) name and address of the manufacturer or distributor as ~~stipulated~~specified in 21.18.3.28 NMAC; and

(8) handling and Storage Instructions may be displayed as required in 21.18.3.29 NMAC.

B. When a pet food or specialty pet food enclosed in an outer container or wrapper is intended for retail sale, all required label information shall appear on the outer container or wrapper.

C. A vignette, graphic, or pictorial representation on a pet food or specialty pet food label shall not misrepresent the contents of the package.

D. The use of the word "proven" in connection with a label claim for a pet food or specialty pet food is not permitted unless the claim is substantiated by scientific or other empirical evidence.

E. No statement shall appear upon the label or labeling of a pet food or specialty pet food which makes false or misleading comparisons between that product and any other product.

F. A personal or commercial endorsement is permitted on a pet food or specialty pet food label provided the endorsement is not false or misleading.

G. A statement on a pet food or specialty pet food label stating "improved," "new," or similar designation shall be substantiated and limited to 6 months production.

H. A statement on a pet food or specialty pet food label stating preference or comparative attribute claims shall be substantiated and limited to 1 year production, after which the claim shall be removed or re-substantiated.

I. Raw milk distributed as pet food or specialty pet food shall bear the following statement "WARNING: NOT FOR HUMAN CONSUMPTION - THIS PRODUCT HAS NOT BEEN PASTEURIZED AND MAY CONTAIN HARMFUL BACTERIA." This statement shall be displayed in a conspicuous manner and shall not be smaller than the height of the minimum font required by the Federal Fair Packaging and Labeling Act for the net quantity statement as shown in the following table:

Panel Size	Minimum Warning Statement Type Size
≤5 in.^{2}	1/16 in.
>5–≤25 in.^{2}	1/8 in.
>25–≤100 in.^{2}	3/16 in.
>100–≤400 in.^{2}	1/4 in.
>400 in.^{2}	1/2 in.

J. When pet food or specialty pet food consists of raw milk, the words, "Raw [blank] Milk" shall appear conspicuously on the principal display panel (blank is to be completed by using the species of animal from which the raw milk is collected).

[21.18.3.19 NMAC - ~~N, 9/30/2013~~Rp, 21.18.3.19 NMAC, X/XX/XXXX]

21.18.3.20 PET FOOD AND SPECIALTY PET FOOD BRAND AND PRODUCT NAMES:

A. ~~**A.** The words "one-hundred percent"~~The names of the ingredient(s) used in the brand or product name or elsewhere on the product label shall appear in order of predominance by weight in the product. Names of flavors due to their varying intensity can be in any order.

B. The words "100%" or "All" or words of similar designation shall not be used in the brand or product name of a pet food or specialty pet food if the product contains more than one ingredient, not including water sufficient for processing, decharacterizing agents, or trace amounts of preservatives and condiments.

~~B~~C. An ingredient or a combination of ingredients may form a part of the product name of a pet food or specialty pet food:

(1) When the ingredient(s) constitutes at least ninety-five percent of the total weight of the product. Water sufficient for processing may be excluded when calculating the percentage; however, the ingredient(s) shall constitute at least seventy percent of the total product weight.

(2) When any ingredient(s) constitutes at least ~~25%~~twenty-five percent of the weight of the product, provided that:

(a) water sufficient for processing may be excluded when calculating the percentage; however, the ingredients(s) shall constitute at least ten percent -of the total product weight; and

(b) a descriptor is used with the ingredient name(s); this descriptor shall imply other ingredients are included in the product formula; examples of descriptors include "dinner," "platter," "entrée," "formula," and "recipe"; and

(c) the descriptor shall be in the same size, style, and color print as the ingredient name(s).

(3) When a combination of ingredients, which are included in the product name in accordance with Subsection B of 21.18.3.20 NMAC, meets all of the following:

(a) Each ingredient constitutes at least three percent of the product weight, excluding water sufficient for processing; and,

~~**(b)** The names of the ingredients appear in the order of their respective predominance by weight in the product; and,~~

~~**(c**~~ **(b)** All such ingredient names appear on the label in the same size, style, and color print.

~~**C**~~**D.** When the name of any ingredient appears in the product name of a pet food, specialty pet food, or elsewhere on the product label and includes a descriptor such as "with" or similar designation, the named ingredient(s) must each constitute at least three percent of the product weight exclusive of water for processing. If the names of more than one ingredient are shown, they shall appear in their respective order of predominance by weight in the product. The three percent minimum level shall not apply to claims for nutrients such as, but not limited to, vitamins, minerals, and fatty acids as well as condiments. The word "with," or similar designation and named ingredients shall be in the same size, style, color, and case print and be of no greater size than:

Panel Size	~~Max "~~**Maximum "with claim~~"~~" Type Size**
< 5 sq. in.	1/8”
5-25 sq. in.	1/4"
25-100 sq. in	3/8”
100-400 sq. in	1/2"
400 sq. in +	1”

~~**D**~~**E.** A flavor designation may be included as part of the product name or elsewhere on the label of a pet food or specialty pet food when the flavor designation meets all of the following:

(1) the flavor designation:

(a) conforms to the name of the ingredient as listed in the ingredient statement; or

(b) is identified by the source of the flavor in the ingredient statement; and

(2) the word "flavor" is printed in the same size type and with an equal degree of conspicuousness as the name of the flavor designation; and

(3) substantiation of the flavor designation, the flavor claim, or the ingredient source is provided upon request.

~~**E.** The product name of the pet food or specialty pet food shall not be derived from one or more ingredients unless all ingredients are included in the name, except as specified by Subsections B or C of 21.18.3.20 NMAC; provided that the name of an ingredient or combination of ingredients may be used as a part of the product name if:~~

~~**(1)** the ingredient or combination of ingredients is present in sufficient quantity to impart a distinctive characteristic to the product or is present in amounts which have a material bearing upon the price of the product or upon acceptance of the product by the purchaser thereof; or~~

~~**(2)** it does not constitute a representation that the ingredient or combination of ingredients is present to the exclusion of other ingredients.~~

F. Contractions or coined names referring to ingredients shall not be used in the brand name of a pet food or specialty pet food unless it is in compliance with Subsections ~~B,~~ C, D or ~~D~~E of 21.18.3.20 NMAC.

G. ~~When~~Unless a pet food ~~or~~and specialty pet food ~~consists of raw milk, the words "Raw (blank) Milk" shall appear conspicuously~~is identified on the principal display panel~~. (Blank is to be completed by using the species of animal from which the raw milk is collected.)~~

~~[21.18.3.20 NMAC - N, 9/30/2013]~~

21.18.3.21 PET FOOD AND SPECIALTY PET FOOD EXPRESSION OF GUARANTEES:

A. The "Guaranteed Analysis" shall be listed in the following order and format unless otherwise specified in these regulations:

(1) A pet food or specialty pet food label shall list the following required guarantees;

(a) minimum percentage of crude protein;

(b) minimum percentage of crude fat;

(c) maximum percentage of crude fat, if required by 21.18.3.27 NMAC;

(d) maximum percentage of crude fiber;

(e) maximum percentage of moisture; and

(f) additional guarantees shall follow moisture.

(2) When ash is listed in the guaranteed analysis on a pet food or specialty pet food label, it shall be guaranteed as a maximum percentage and shall immediately follow moisture.

(3) A dog or cat food label shall list stew, gravy, sauce, broth, aspic, juice, milk replacer, or other required or voluntary guarantees in the same order and units of the nutrients in the association of American feed control officials dog (or cat) food nutrient profiles. Guarantees for substances not listed in the association of American feed control officials dog (or cat) food nutrient profiles or not otherwise provided for in these regulations, shall immediately follow the listing of the recognized nutrients and shall be accompanied by an asterisk referring to the disclaimer "not recognized as an essential nutrient by the association of American feed control officials dog (or cat) food nutrient profiles." The disclaimer shall appear immediately after the last such guarantee in the same size type as the guarantees.

(4) A specialty pet food label shall list other required or voluntary guarantees in the same order and units of the nutrients in an association of American feed control officials recognized nutrient profile for the specific species; however, if no species-specific association of American feed control officials recognized nutrient profile is available, the order and units shall follow the same order and units of nutrients in the association of American feed control officials cat food nutrient profile. Guarantees for substances not listed in an association of American feed control officials recognized nutrient profile for the specific species of animal shall immediately follow the listing of recognized nutrients and shall be accompanied by an asterisk referring to the disclaimer "not recognized as an essential nutrient by the _____." (Blank is to be completed by listing the specific association of American feed control officials recognized nutrient profile.) This disclaimer shall appear immediately after the last such guarantee in the same size type as the guarantees. No such disclaimer shall be required unless an association of American feed control officials recognized nutrient profile is available for the specific species of specialty pet.

B. The sliding scale method of expressing a guaranteed analysis on a pet food or specialty pet food label (for example, "Minimum crude protein 15-18%") is prohibited.

C. The label of a pet food or a specialty pet food which is formulated as and represented to be a mineral supplement shall include:

(1) minimum guarantees for all minerals from sources declared in the ingredient statement and established by an association of American feed control officials recognized nutrient profile, expressed as the element in units specified in the nutrient profile; or

(2) minimum guarantees for all minerals from sources declared in the ingredient statement expressed as the element in units specified in the association of American feed control officials cat food nutrient profiles when no species-specific nutrient profile has been recognized by the association of American feed control officials; and

(3) mineral guarantees required by Paragraphs (1) and (2) of Subsection C of 21.18.3.21 NMAC may be expressed in milligrams (mg) per unit (e.g., tablets, capsules, granules, or liquids) consistent with those employed in the quantity statement and directions for use; and

(4) a weight equivalent (e.g., 1 fl. oz. = 28 grams) for liquid products.

D. The label of a pet food or a specialty pet food which is formulated as and represented to be a vitamin supplement shall include:

(1) minimum guarantees for all vitamins from sources declared in the ingredient statement and established by an association of American feed control officials recognized nutrient profile, expressed in units specified in the nutrient profile; or

(2) minimum guarantees for all vitamins from sources declared in the ingredient statement expressed in units specified in the association of American feed control officials cat food nutrient profiles when no

~~species-specific nutrient profile has been recognized by the association of American feed control officials; and provided that~~

~~(3) vitamin guarantees required by Paragraphs (1) and (2) of Subsection D of 21.18.3.21 NMAC may be expressed in approved units (e.g., IU, mg, g) per unit (e.g., tablets, capsules, granules, or liquids) consistent with those employed in the quantity statement and directions for use; and~~

~~(4) a weight equivalent (e.g., 1 fl. oz. = 28 grams) for liquid products.~~

~~E. When the label of a pet food or specialty pet food includes a comparison of the nutrient content of the food with levels established by an association of American feed control officials recognized nutrient profile (such as a table of comparison, a percentage, or any other designation referring to an individual nutrient or all of the nutrient levels) the following apply;~~

~~(1) the product shall meet the association of American feed control officials recognized nutrient profile; and~~

~~(2) the statement of comparison shall be preceded by a statement that the product meets the association of American feed control officials recognized profile: however, the statement that the product meets the association of American feed control officials recognized nutrient profile is not required provided that the nutritional adequacy statement as per Paragraph (1) of Subsection A of 21.18.3.24 NMAC or Subparagraph (a) of Paragraph (2) of Subsection B of 21.18.3.24 NMAC appears elsewhere on the product label; and~~

~~(3) the statement of comparison of the nutrient content shall constitute a guarantee but need not be repeated in the guaranteed analysis; and~~

~~(4) the statement of comparison may appear on the label separate and apart from the guaranteed analysis~~name, the~~.~~

~~F. The~~ maximum moisture declared on a pet food or specialty pet food label shall not exceed seventy-eight percent or the natural moisture content of the ingredients, whichever is higher. ~~However, pet food and specialty pet food such as, but not limited to, those consisting principally of stew, gravy, sauce, broth, aspic, juice, or a milk replacer and which are so labeled, may contain moisture in excess of seventy-eight percent.~~

~~G. Guarantees for crude protein, crude fat,~~[21.18.3.20 NMAC - Rp, 21.18.3.20 NMAC, X/XX/XXXX]

21.18.3.21 PURPOSE STATEMENT AND ~~crude fiber are not required when~~**NUTRITIONAL ADEQUACY CLAIMS:**

A. A statement identifying the purpose of a pet food or specialty pet food is required on the principal display panel of the label in accordance with the following:

(1) The purpose of a pet food or specialty pet food shall be stated as:

(a) "Complete [Species] Food" – for food products intended ~~for purposes~~to be the complete diet for all life stages and sizes of a pet or specialty pet in accordance with the unqualified claims in Subsection B of 21.18.3.21 NMAC;

(b) For food products intended to be the complete diet for a limited life stage or size of a pet or specialty pet in accordance with the qualified claims in Subsection C of 21.18.3.21 NMAC, one of the two following statements shall be used:

(i) Complete food for [blank] where the blank shall be filled with One or more of the following: 1) "adult [species];" 2) "puppies," "kittens," or "juvenile [species other than ~~to furnish these substances or they are of minor significance relative to the primary purpose of the product such as a mineral or vitamin~~dog or cat];" 3) "puppies (<70 lb. As an adult);" 4) "dogs (except puppies >70 lb. As an adult)"; or

(ii) Complete [blank] food where the blank shall be filled with One or more of the following: 1)"adult [species];" 2) "puppy," "kitten," or "juvenile [species other than dog or cat];" 3) "puppy (<70 lb. As an adult);" or 4) "dog (except puppies >70 lb. As an adult)";

(c) Veterinary diet for [species] – for food products intended to be used under veterinary supervision only in accordance with regulation pf4(d);

(d) "[species] treat" – for food products for pets or specialty pets, provided occasionally for enjoyment, training, entertainment, or other purposes, and not generally intended or represented to be a complete food or nutritional supplement~~.~~;

~~H. Guarantees~~ **(e)** "[species] food supplement" – for ~~microorganisms and enzymes shall be stated in the format as stipulated in Subsections G and H of 21.18.3.10 NMAC.~~ ~~[21.18.3.21 NMAC - N, 9/30/2013]~~

~~**21.18.3.22 PET FOOD AND SPECIALTY PET FOOD INGREDIENTS:**~~

~~**A.** Each ingredient of a pet food or specialty pet food shall be listed in the ingredient statement as follows:~~

~~**(1)** the names of all ingredients in the ingredient statement shall be shown in letters or type of the same size, style, and color;~~

~~**(2)** the ingredients shall be listed in descending order by their predominance by weight in non-quantitative terms;~~

~~**(3)** ingredients shall be listed and identified by the name and definition established by the association of American feed control officials; and~~

~~**(4)** any ingredient for which no name and definition have been so established shall be identified by the common or usual name of the ingredient.~~

~~**B.** The ingredients "meat" or "meat by-~~food products~~" shall be qualified to designate the animal from which the meat or meat by-products are derived unless the meat or meat by-products are derived from cattle, swine, sheep, goats, or any combination thereof. For example, ingredients derived from horses shall be listed as "horsemeat" or "horsemeat by-products."~~

~~**C**~~ for pets or specialty pets that are intended to supply specific nutrient(s)~~. Brand or trade names shall not be used in the ingredient statement.~~

~~**D.** A reference to the quality, nature, form,~~ or other ~~attribute of an ingredient shall be allowed when the reference meets all of the following:~~

~~**(1)** the designation is not false or misleading;~~

~~**(2)** the ingredient imparts a distinctive characteristic to the pet~~ food ~~or specialty pet~~components but are not a complete diet;

(f) "[species] food ~~because it possesses that attribute; and~~

~~**(3)** a reference to quality or grade of the ingredient does not appear in the ingredient statement.~~

~~[21.18.3.22 NMAC - N, 9/30/2013]~~

~~**21.18.3.23 PET FOOD AND SPECIALTY PET FOOD DRUGS AND PET FOOD ADDITIVES:**~~

~~**A.** An artificial color may be used in a pet food or specialty pet food only if it has been shown to be harmless to pets or specialty pets. The permanent or provisional listing of an artificial color in the United States food and drug regulations as safe~~mixer" – for ~~use, together with the conditions, limitations, and tolerances, if any, incorporated therein, shall be deemed to be satisfactory evidence that the color is, when used pursuant to such regulations, harmless to~~ food products for pets or specialty pets~~.~~

~~**B.** Evidence may be required to prove the safety and efficacy or utility of a pet food or specialty pet food, which contains additives or drugs, when used according to directions furnished on the label. Satisfactory evidence of the safety and efficacy of a pet food or specialty pet food may be established:~~

~~**(1)** When the pet food or specialty pet food contains such additives, the use of which conforms to the requirements of the applicable regulation in the "Code of Federal Regulations, Title 21," or which~~ that are ~~"prior sanctioned" or "informal review sanctioned" or "~~intended to top, accompany, or contribute to a complete diet but are not generally ~~recognized as safe" for such use~~intended or represented to be a complete diet; or

~~**(2)** When the~~ **(g)** "daily [specialty pet species] food~~ or~~" – for food products that are intended to be the daily diet for specialty pets where no recognized nutritional authority exists. A limited life stage may be indicated, i.e., "daily [specialty pet ~~food itself is~~ species] food for [juveniles or adults]."

(2) This purpose statement shall:

(a ~~drug or contains a drug as defined~~**)** appear within the bottom thirty percent of the area of the label principal display panel in ~~76-19A-2I, NMSA 1978 and is "~~lines generally ~~recognized~~ parallel to the base on which the package rests as it is designed to be displayed and shall be repeated on the alternate principal display panel, if present. However, on packages having a principal display panel of 5 square inches or less, the requirement for placement within the bottom thirty percent of the area of the label panel shall not apply;

(b) be at least as ~~safe~~large as the statement of net quantity, consistent with 16 CFR 500.21;

(c) appear in the same color and ~~effective" for the labeled use or is marketed subject to an application approved by the food~~ style as the statement of net quantity and ~~drug administration under Title 21, U.S.C. 360(b).~~on the same background color as the statement of net quantity; and

(d) be separated by at least a space equal to the height of the letter "n" used in the statement of net quantity from other printed label

Information appearing above or below it and by at least a space equal to twice the width of the letter "n" of the style of type used in the quantity of contents statement from other printed label information appearing to the left or right of it.

B. The label of ~~**C. When a drug is included in**~~ a pet food or specialty pet food~~, the format required by Subsection B of 21.18.3.9 NMAC for labeling medicated feeds shall be used.~~

~~[21.18.3.23 NMAC - N, 9/30/2013]~~

~~**21.18.3.24 PET FOOD AND SPECIALTY PET FOOD NUTRITIONAL ADEQUACY:**~~

~~**A.** The label of a pet food~~ which is intended for all life stages and sizes of the pet or specialty pet ~~food which is intended for all life stages of the pet or specialty pet~~ may ~~include an~~make unqualified ~~claim~~claims, directly or indirectly, such as ~~"~~"complete and balanced~~," ",~~" "perfect~~," ",~~" "scientific~~,",~~" or ~~"~~"100% nutritious~~"~~" if at least one of the following apply:

(1) the product meets the nutrient requirements for all life stages ~~established by an association of American feed control officials recognized nutrient profile; or,~~and sizes Established by an Association of American feed control officials-recognized nutrient profile; or

(2) the product meets the criteria for all life stages as substantiated by completion of the appropriate ~~association~~Association of American feed control officials~~-~~-recognized animal feeding protocol(s);~~ or~~

(a) unqualified claims of nutritional adequacy that include large size dogs (greater than 70 lb. As an adult) can be substantiated by completing the appropriate protocols using large size dogs; or

(b) can be substantiated by completing the appropriate protocols using dogs less than 70 lb. Adult weight while containing no more calcium and phosphorus than the maximum limits for large size dogs listed in the Association of American feed control officials dog food nutrient profiles; or

(3) the product is a member of a product family which is nutritionally similar to a lead product~~,~~ which contains a combination of ingredients that has been fed to a normal animal as the sole source of nourishment in accordance with the testing procedures established by ~~the association~~Association of American feed control officials for all life stages, provided that:

(a) the nutritional similarity of the family product can be substantiated according to the procedures for establishing pet food product families developed by ~~the association~~Association of American feed control officials; and~~,~~

(b) the family product meets the criteria for all life stages; and

(c) under circumstances of reasonable doubt, the ~~department~~[state control official] may require the manufacturer to perform additional testing of the family product in order to substantiate the claim of nutritional adequacy.

~~**B**~~**C.** The label of a pet food or specialty pet food which is intended for a limited purpose (such as size of dog) or a specific life stage, but not for all life stages and sizes, may ~~include a~~make qualified ~~claim~~claims, directly or indirectly, such as ~~"~~"complete and balanced~~," ",~~" "perfect~~," ",~~" "scientific~~,",~~" or ~~"~~"100% nutritious~~"~~" when the product and claim ~~meets all~~meet both of the following:

(1) The claim is qualified with a statement of the limited purpose or specific life stage for which the product is intended or suitable, for example, ~~"~~"complete and balanced for puppies (or kittens~~)."~~)." The claim and the required qualification shall be juxtaposed on the same label panel and in the same size, style, and color print; and

(2) The product meets at least one of the following:

(a) the nutrient requirements for the limited purpose or specific life stage established by an ~~association~~Association of American feed control officials~~-~~-recognized nutrient profile; or~~,~~

(b) the criteria for a limited purpose or a specific life stage as substantiated by completion of the appropriate ~~association~~Association of American feed control officials~~-~~-recognized animal feeding protocol(s);~~ or,~~

(i) qualified claims of nutritional adequacy that include large size dogs can be substantiated by completing the appropriate protocols using large size dogs; or

(ii) can be substantiated by completing the appropriate protocols using dogs less than 70 lb. Adult weight while containing no more calcium and phosphorus than the maximum limits for large size dogs listed in the Association of American feed control officials dog food nutrient profiles; or

(c) the requirements of a product family which is nutritionally similar to a lead product which contains a combination of ingredients which, when fed for such limited purpose, will satisfy the nutrient requirements for such limited purpose and has had its capabilities in this regard demonstrated by adequate testing, and provided that:

(i) the nutritional similarity of the family product can be substantiated according to the procedures for establishing pet food product families developed by ~~the association~~Association of American feed control officials; and~~,~~

(ii) the family product meets the criteria for such limited purpose; and~~,~~

(iii) under circumstances of reasonable doubt, the department may require the manufacturer to perform additional testing for the family product to substantiate the claim of nutritional adequacy.

~~**C.** Dog and cat food labels shall include a statement of nutritional adequacy or purpose of the product except when the dog or cat food is clearly and conspicuously identified on the principal display panel as a "snack," "treat," or "supplement." The statement shall consist of one of the following:~~

~~**(1)** a claim that the dog or cat food meets the requirements of one or more of the recognized categories of nutritional adequacy: gestation/lactation, growth, maintenance, and all life stages. The claim shall be stated verbatim as one of the following:~~

~~**(a)** "(name of product) is formulated to meet the nutritional levels established by the association of American feed control officials dog (or cat) food nutrient profiles for _____." (blank is to be completed by using the stage or stages of the pet's life, such as gestation/lactation, growth, maintenance, or the words "All Life Stages"); or~~

~~**(b)** "animal feeding tests using association of American feed control officials procedures substantiate that (name of product) provides complete and balanced nutrition for _____." (blank is to be completed by using the stage or stages of the pet's life tested, such as gestation/lactation, growth, maintenance, or the words "All Life Stages"); or~~

~~**(c)** "(name of product) provides complete and balanced nutrition for _____ (blank is to be completed by using the stage or stages of the pet's life, such as gestation, lactation, growth, maintenance or the words "All Life Stages") and is comparable in nutritional adequacy to a product which has been substantiated using association of American feed control officials feeding tests;"~~

~~**(2)** a nutritional or dietary claim for purposes other than those listed in Subsection A or B of 21.18.3.24 NMAC if the claim is scientifically substantiated; or~~

~~**(3)** the statement: "this product is intended for intermittent or supplemental feeding only," if a product does not meet the requirements of Subsection A or B of 21.18.3.24 NMAC or any other special nutritional or dietary need and so is suitable only for limited or intermittent or supplementary feeding.~~

D. A product intended for use by, or under the supervision or direction of, a veterinarian shall ~~make a statement~~ clearly indicate the nutritional adequacy of the product in accordance with ~~Paragraphs (1) or~~ regulation Subparagraph (f) of Paragraph (3) of Subsection ~~C~~A of 21.18.3.~~24~~22 NMAC or Subparagraph (f) of Paragraph (2) of Subsection B of 21.18.3.22 NMAC as would be required for any other pet food or specialty pet food.

E. A signed affidavit attesting that the product meets the requirements of Subsection ~~A or Paragraph (2) of Subsection~~ B of 21.18.3.21 NMAC or Subsection C of 21.18.3.~~24~~21 NMAC shall be submitted to the ~~department~~ upon request.

F. If the nutrient content of a product does not meet those nutrient requirements established by an ~~association~~Association of American feed control officials~~-~~recognized nutrient profile, or if no requirement has been established by an ~~association~~Association of American feed control officials~~-~~recognized nutritional authority for the life stage(s) of the intended species, the claimed nutritional adequacy ~~or purpose~~ of the product shall be scientifically substantiated.

G. The following ~~association~~Association of American feed control officials~~-~~recognized nutritional authority, nutrient profile, and/ or animal feeding protocol shall be acceptable as the basis for a claim of nutritional adequacy:

(1) As an ~~association~~Association of American feed control officials~~-~~recognized nutrient profile or nutritional authority:

(a) ~~for~~For dogs, the ~~association~~Association of American feed control officials dog food nutrient profiles;

(b) ~~for~~For cats, the ~~association~~Association of American feed control officials cat food nutrient profiles;

(c) ~~for~~For specialty pets, the nutrient recommendations approved by the committee on animal nutrition of the national research council of the national academy of sciences, provided that, this nutrient recommendation is recognized only for the specific specialty pet for which the profile is intended.

(2) As an Association of American feed control officials-recognized animal feeding protocol(s), the Association of American feed control officials dog and cat food feeding protocols.

H. When the label of a pet food or specialty pet food includes a comparison of the nutrient content of the food with levels established by an Association of American feed control officials-recognized nutrient profile such as a table of comparison, a percentage, or any other designation referring to an individual nutrient or all of the nutrient levels, the following apply;

(1) The product shall meet the Association of American feed control officials-recognized nutrient profile; and

(2) The statement of comparison shall be preceded by a statement that the product meets the Association of American feed control officials-recognized profile; however, the statement that the product meets the Association of American feed control officials-recognized nutrient profile is not required provided that the nutritional adequacy statement as per regulation Paragraph (1) of Subsection B of 21.18.3.21 NMAC or Subparagraph (a) of Paragraph (2) of Subsection C of 21.18.3.21 NMAC appears elsewhere on the product label; and

(3) The statement of comparison of the nutrient content shall constitute a guarantee and shall be in the nutrient guarantees within the pet or specialty pet nutrition facts; and

(4) The statement of comparison shall appear on the label separate and apart from the nutrient guarantees within the pet or specialty pet nutrition facts.

[21.18.3.21 NMAC - Rp, 21.18.3.21 NMAC, X/XX/XXXX]

21.18.3.22 PET AND SPECIALTY PET NUTRITION FACTS:

A. Pet Nutrition Facts shall be displayed in a prominent place on the label of all pet foods (including treats, food supplements, veterinary diets, and food mixers), but not necessarily on the principal display panel. The information shall be set off in a box by use of hairlines and shall be all black or one-color type, printed on a white or other neutral contrasting background so as to be clearly visible under the heading "Pet Nutrition Facts" that is centered in the top row of the box and twice the size of all other text in the box. A hairline rule that is centered between the lines of text shall separate "Pet Nutrition Facts" from the next line of text. The box contains the following required elements with all text the same size and style in the following order:

(1) **t**he stated whole familiar household unit (e.g., can, measuring cup, treat, or piece), consistent with the feeding directions, and its weight in grams shall be right justified. This is set off by a bold line centered between this and the next line of text.

(2) a statement of Calorie content, determined as specified in 21.18.3.26 NMAC shall include the following:

(a) the Calorie content of the product shall be stated after the left justified heading:

(i) "Calories per [familiar household unit]†: [#]" when the Calorie content is determined in accordance with Paragraph (1) of Subsection A of 21.18.3.26 NMAC or

(ii) "Calories per [familiar household unit] (fed): [#]" when the Calorie content is determined in accordance with 21.18.3.26(A)2 NMAC.

(b) Below the Calorie content statement, the number of Calories contributed by Protein, Fat, and Carbohydrate shall be declared, in that order, after "From:". The "From:" line shall be indented to reflect that it is a component of the total Calories on the line above. If the total Calorie content of the product is determined by feeding trial in accordance with 21.18.3.26(A)2 NMAC then "†" shall be declared immediately after the number of Calories from Carbohydrates. The determination of Calories from protein, fat, and carbohydrate are as described in Subsection C of 21.18.3.26 NMAC. This is set off by a bold line centered between this and the next line of text.

(3) The nutrient guarantees shall appear under the headers "Nutrients" that is left justified to the edge of the box, "Guaranteed" that is right justified to a vertical hairline that runs from this line of text to the last guaranteed nutrient value, and "per [familiar household unit]" that is right justified to the edge of the box. The amount "per [familiar household unit]" for each nutrient is determined by multiplying the guaranteed amount (concentration) by the number of grams in the familiar household unit and shall include the resultant unit of such amount (e.g., grams, milligrams, or international units). The guarantees shall be listed in the following order with a hairline centered between each line of text:

(a) A pet food label shall list the following required guaranteed amounts, stated as a maximum or minimum, as appropriate:

(i) "Protein" is minimum percentage of crude protein;

(ii) "Fat" is minimum percentage of crude fat;

(iii) "Total Carbohydrate†" is maximum percentage equal to [100 – (Crude Protein + Crude Fat + Moisture + Ash)];

(iv) "Dietary Fiber" is maximum percentage of total dietary fiber. The dietary fiber guarantee shall be indented to reflect that it is a component of the total carbohydrate guarantee on the line above;

(v) "Moisture" is maximum percentage of moisture; and

(vi) Maximum percentage of crude fat ("Fat") shall be listed between the minimum percentage of crude fat and the maximum percentage "Total Carbohydrate" if required by Regulation PF9;

(vii) additional required or voluntary guarantees shall follow moisture or ash, if listed.

(b) When "Ash" is listed, it shall be guaranteed as a maximum percentage and shall immediately follow moisture.

(c) When listed on the label of a dog or cat food product, guarantees for "Dietary Starch" and "Sugars" shall be stated as maximum guaranteed amounts. Neither guaranteed amount shall be listed without the other. The guaranteed amount for dietary starch shall follow dietary fiber with the same indentation. The guaranteed amount for sugars shall follow dietary starch with the same indentation.

(d) The "†calculated value" shall appear immediately after the last guarantee below a bold line.

(e) Other additional required or voluntary guarantees shall appear in accordance with the following:

(i) guarantees for nutrients are in the same order and units of the nutrients in the Association of American feed control officials Dog (or Cat) Food Nutrient Profiles following ash, if also listed, or moisture, if ash is not listed.

(ii) guarantees for substances not listed in the Association of American feed control officials Dog (or Cat) Food Nutrient Profiles, or not otherwise provided for in these Regulations, shall immediately follow the listing of the recognized nutrients and be accompanied by an asterisk. For any such guarantees, a hairline shall be centered between the last and the next line of text; the disclaimer "*not recognized as an essential nutrient by the association of American feed control officials ~~recognized animal feeding protocol(s), the~~ Dog (or Cat) Food Nutrient Profiles" shall appear immediately after "†calculated value".

(f) The statement of nutritional adequacy shall appear immediately below the bold line separating it from the disclaimers which follow the guarantees:

(i) a statement that the dog or cat food meets the requirements of one or more of the recognized categories of nutritional adequacy: gestation/lactation, growth, maintenance, and all life stages. It shall be stated verbatim as one of the following: 1) (Name of product) is formulated to meet the nutritional levels established by the association of American feed control officials dog ~~and cat food feeding protocols.~~(or cat) food nutrient profiles for [blank]. (Blank is to be completed by using the stage or stages of the pet's life, such as gestation/ lactation, growth, maintenance, or the words "All Life Stages".) For a dog food, when the blank includes the words "Growth" or "All Life Stages," one of the following phrases must also be added verbatim to the end of the claim: "including growth of large size dogs (70 lb. or more as an adult)" if the product has been formulated to meet the levels of nutrients specifically referenced in the Dog Food Nutrient Profiles as being applicable to large size growing dogs. Or "except for growth of large size dogs (70 lb. or more as an adult)" if the product has not been formulated to meet the levels of nutrients specifically referenced in the Dog Food Nutrient Profiles as being applicable to large size growing dogs; or 2)"Animal feeding tests using association of American feed control officials procedures substantiate that (Name of Product) provides complete and balanced nutrition for [blank]." (Blank is to be completed by using the stage or stages of the pet's life tested, such as, gestation/lactation, growth, maintenance, or the words "All Life Stages"); or 3) "(Name of Product) provides complete and balanced nutrition for [blank] (Blank is to be completed by using the stage or stages of the pet's life, such as gestation, lactation, growth, maintenance, or the words "All Life Stages") and is comparable in nutritional adequacy to a product which has been substantiated using association of American feed control officials feeding tests."

(ii) A nutritional or dietary statement for purposes other than those listed in Subsections B or C of 21.18.3.21 NMAC if the statement is scientifically substantiated; or

(iii) The statement: "This product is intended for intermittent or supplemental feeding only," if a product does not meet the requirements of Subsections of B or C of 21.18.3.21 NMAC or any other special nutritional or dietary need and so is suitable only for limited or intermittent or supplementary feeding.

B. Specialty Pet Nutrition Facts shall be displayed in a prominent place on the label of all specialty pet foods (including treats, food supplements, veterinary diets, and food mixers), but not necessarily on the principal display panel. The information shall be set off in a box by use of hairlines and shall be all black or one-color type,

printed on a white or other neutral contrasting background so as to be clearly visible under the heading "Specialty Pet Nutrition Facts" that is centered in the top row of the box and twice the size of all other text in the box. A hairline rule that is centered between the lines of text shall separate "Specialty Pet Nutrition Facts" from the next line of text. The box contains the following required elements with all text the same size and style in the following order:

(1) The stated whole familiar household unit (e.g., can, measuring cup, treat, or piece), consistent with the feeding directions, and its weight in grams shall be right justified. This is set off by a bold line centered between this and the next line of text.

(2) The nutrient guarantees shall appear under the headers "Nutrients" that is left justified to the edge of the box, "Guaranteed" that is right justified to a vertical hairline that runs from this line of text to the last guaranteed nutrient values, and "per [familiar household unit]" that is right justified to the edge of the box. The amount "per [familiar household unit]" for each nutrient is determined by multiplying the guaranteed amount (concentration) by the number of grams in the familiar household unit and shall include the resultant unit of such amount (e.g., grams, milligrams, or international units). The guarantees shall be listed in the following order with a hairline centered between each line of text:

(a) A specialty pet food label shall list the following required guaranteed amounts, stated as a maximum or minimum, as appropriate:

(i) "Protein" is minimum percentage of crude protein;

(ii) "Fat" is minimum percentage of crude fat;

(iii) "Total Carbohydrate†" is maximum percentage equal to [100 – (Crude Protein + Crude Fat + Moisture + Ash)];

(iv) "Dietary Fiber" is maximum percentage of total dietary fiber. The dietary fiber guarantee shall be indented to reflect that it is a component of the total carbohydrate guarantee on the line above; and

(v) "Moisture" is maximum percentage of moisture;

(vi) additional required or voluntary guarantees shall follow moisture or ash, if listed.

(b) When "Ash" is listed, it shall be guaranteed as a maximum percentage and shall immediately follow moisture.

(c) When listed on the label of a specialty pet food product, guarantees for "Dietary Starch" and "Sugars" shall be stated as maximum guaranteed amounts. Neither guaranteed amount shall be listed without the other. The guaranteed amount for dietary starch shall follow dietary fiber with the same indentation. The guaranteed amount for sugars shall follow dietary starch with the same indentation.

(d) The "†calculated value" shall appear immediately after the last guarantee below a bold line.

(e) Other additional required or voluntary guarantees shall appear in accordance with the following:

(i) these guarantees shall follow ash, if also listed, or moisture, if ash is not listed;

(ii) guarantees for nutrients are in the same order and units of the nutrients in an association of American feed control officials-recognized nutrient profile for the intended animal species; however, if no species-specific association of American feed control officials-recognized nutrient profile is available, the order and units shall follow the same order and units of nutrients in the association of American feed control officials cat food nutrient profile;

(iii) for those specialty pet species with an association of American feed control officials-recognized nutrient profile for the intended animal species, guarantees for substances not listed in that profile, or not otherwise provided for in these Regulations, shall immediately follow the listing of the recognized nutrients and be accompanied by an asterisk. For any such guarantees, a hairline shall be centered between the last and the next line of text. The disclaimer "*not recognized as an essential nutrient by the [blank]." (Blank is to be completed by listing the specific association of American feed control officials-recognized nutrient profile) shall appear immediately after the last such guaranteed amounts. No such disclaimer shall appear unless an association of American feed control officials-recognized nutrient profile is available for the specific species of specialty pet.

(f) The statement of nutritional adequacy shall appear immediately below the bold line separating it from the guarantees as one of the following:

(i) for daily foods for those specialty pet species where no recognized nutritional authority exists, the statement: "This product is intended to be a daily food."

(ii) for all other specialty pet foods: 1) A statement substantiating that the specialty pet food meets the requirements for nutritional adequacy in Subsections B or C of 21.18.3.21 NMAC by an association of American feed control officials-recognized nutritional authority. It shall be stated verbatim as the following: "(Name of product) is formulated to meet the nutritional levels established by [the association of American feed control officials-recognized authority] for [blank]." (Blank is to be completed by stating the species and the stage or stages of the specialty pet's life.); 2) A nutritional or dietary claim for purposes other than those listed in Subsections B or C of 21.18.3.21 NMAC if the claim is scientifically substantiated; or 3) the statement: "This product is intended for intermittent or supplemental feeding only," if a product is suitable only for limited or intermittent or supplementary feeding.

C. The "Pet Nutrition Facts" or "Specialty Pet Nutrition Facts" box of a pet food or a specialty pet food which is formulated as and represented to be a food supplement shall include all of the information required in Subsection A of 21.18.3.22 NMAC or Subsection B of 21.18.3.22 NMAC except that guarantees shall only be displayed on a per feeding unit (e.g., tablets, capsules, granules, or liquids) basis:

(1) for a food supplement that is intended to be a source of nutrients, guarantees shall appear for all nutrients that the product is intended to provide under the headers "Nutrients" that is left justified to the edge of the box and "per [feeding unit]" that is right justified to the edge of the box:

(a) for nutrients with an established requirement by an association of American feed control officials-recognized nutrient profile, minimum guarantees shall be declared in the same order and units (i.e., g, mg, or IU) specified in the association of American feed control officials-recognized nutrient profile for the intended species; or

(b) when no species-specific nutrient profile has been recognized by association of American feed control officials, minimum guarantees shall be declared in the same order and units (i.e., g, mg, or IU) specified in the association of American feed control officials cat food nutrient profiles; and

(c) guarantees for substances not listed in an association of American feed control officials-recognized nutrient profile for the intended animal species, or not otherwise provided for in these Regulations, shall immediately follow the listing of the recognized nutrients and be accompanied by an asterisk.

(i) For any such guarantees, a hairline shall be centered between the last and the next line of text;

(ii) the disclaimer "*not recognized as an essential nutrient by the [blank]." (Blank is to be completed by listing the specific association of American feed control officials-recognized nutrient profile) shall appear immediately after the last such guaranteed amounts. No such disclaimer shall appear unless an association of American feed control officials-recognized nutrient profile is available for the specific species of specialty pet.

(2) For a food supplement that is intended to supply microorganisms and/or enzymes, guarantees shall be declared as stipulated in Subsection G and/or H of 21.18.3.11 NMAC on a per feeding unit (e.g., tablets, capsules, granules, or liquids) basis. The enzyme activity unit meaning should follow the disclaimer within the box.

D. The sliding scale method of expressing a guaranteed amount on a pet food or specialty pet food label (for example, "Protein 15–18% Min") is prohibited.

E. Protein, fat, calculated total carbohydrate, or dietary fiber are not required when the pet food or specialty pet food is intended for purposes other than to furnish these substances or they are of minor significance relative to the primary purpose of the product, such as a mineral or vitamin supplement.

F. For small packages with a total printable area of more than 12 square inches and less than or equal to 40 square inches, all information required in Subsections A, B, or C of 21.18.3.22 NMAC shall appear, but may appear in a linear format. This information shall appear in one place without other intervening material. In the linear format, the required information shall:

(1) appear in the same order as required by Subsections A, B, or C of 21.18.3.22 NMAC but without the formatting described;

(2) text shall be all black or one-color type and all text shall be the same size and style, except that the heading "Pet Nutrition Facts" or "Specialty Pet Nutrition Facts" shall be bolded;

(3) the text shall be sufficiently large so as to be conspicuous and must not be smaller than 1/16 inch;

(4) the guaranteed amount shall appear immediately after the amount "per [familiar household unit]" for each nutrient with the guaranteed amount enclosed in parentheses and all units clearly identified;

(5) the following abbreviations may be used: Total Carbohydrate as "Carb†," Dietary Fiber as "Fiber".

G. For very small packages with a total printable area of less than or equal to 12 square inches, the information required elsewhere in 21.18.3.22 NMAC is not required to appear on the label. However, all information specified elsewhere in 21.18.3.22 NMAC for the particular product type shall be determined and shall be submitted to the department upon request. The following limited information is required to appear on the label:

(1) this information shall appear in one place without other intervening material;

(2) text shall be all black or one-color type and all text shall be the same size and style, except that the heading "Nutrition Facts" shall be bolded;

(3) the text shall be sufficiently large so as to be conspicuous and must not be smaller than 1/16 inch;

(4) for pet foods, only total calories are required and shall be stated as:

(a) "Cal (calc): [#]" when the Calorie content is determined in accordance with Paragraph (1) of Subsection A of 21.18.3.26 NMAC; or

(b) "Cal (fed): [#]" when the Calorie content is determined in accordance with Paragraph (2) of Subsection A of 21.18.3.26 NMAC.

(5) Guaranteed amounts shall be stated in weight per entire contents (e.g., grams per pouch). The following required guaranteed amounts stated as a maximum or minimum, as appropriate:

(a) "Protein" is crude protein;

(b) "Fat" is crude fat;

(c) "Carb" is calculated from [100 – (% Crude Protein + % Crude Fat + % Moisture + % Ash)];

(d) "Fiber" is total dietary fiber;

(e) "Moisture" is moisture; and

(f) additional required or voluntary guarantees shall follow moisture or ash, if listed, and shall comply with the requirements for such guarantees in Paragraph (3) of Subsection A of 21.18.3.22 NMAC or Paragraph (2) of Subsection B of 21.18.3.22 NMAC, as appropriate, except that they shall be stated in only in weight per entire contents.

[21.18.3.22 NMAC - Rp, 21.18.3.22 NMAC, X/XX/XXXX]

21.18.3.23 PET FOOD AND SPECIALTY PET FOOD INGREDIENTS:

A. Each ingredient of a pet food or specialty pet food shall be listed in the ingredient statement as follows:

(1) the names of all ingredients in the ingredient statement shall be shown in letters or type of the same size, style, and color, except where the defined name of the ingredient includes genus and species (e.g., microorganisms) which may be shown in italics;

(2) the ingredients shall be listed in descending order by their predominance by weight in non-quantitative terms, except if the ingredient is a vitamin and/or mineral premix, the premix may be declared in order of predominance by the name "vitamins" or "minerals," as appropriate, followed by a parenthetical listing of all the vitamins and/or minerals in the premix, each in their order of predominance by weight as listed on the ingredient statement of the premix label;

(3) ingredients shall be listed and identified by the name established in the association of American feed control officials official Common or Usual Names and Definitions of Feed Ingredients, except any ingredient for which no association of American feed control officials ingredient name exists shall be identified by the common or usual name;

(4) any ingredient suitable for use in pet food or specialty pet food for which there is a codified standard of identity in Title 9 or 21 of the Code of Federal Regulations shall be declared in accordance with the applicable regulation, which includes the name of the standardized food followed by a parenthetical listing of its ingredients, if necessary, as provided in the regulation;

(5) the ingredients "meat," "poultry," "poultry by-products," or "meat by-products" shall be qualified to designate the animal from which the ingredients are derived unless the meat or meat by-products are derived from cattle, swine, sheep, goats, or any combination thereof or the poultry or poultry meal are derived from

chickens, turkeys, ducks, geese, guineas, ratites, or squabs, or any combination thereof. For example, ingredients derived from deer shall be listed as "venison" or "venison by-products;"

(6) for ingredients consisting of fish, "fish meal," or "fish by-products," the name of the ingredient may include "fish" without further specification of the type of the fish or if it bears a name descriptive of its kind (e.g., "ocean whitefish" or by using the acceptable market name(s) or common name (but not any vernacular or slang names) of the individual fish species in the ingredient as established by the FDA Seafood List), it must correspond thereto; and

(7) for purposes of ingredient labeling of pet food or specialty pet food, the ingredient "sugar" shall refer to sucrose, which is obtained from sugar cane or sugar beets in accordance with the provisions in Title 21 of the Code of Federal Regulations. For all other labeling purposes outside the ingredient list, the term "sugar" shall be synonymous with "sugars" as defined in the Official Feed Terms.

B. Brand or trade names shall not be used in the ingredient statement.

~~[~~**C.** Reference to quality or grade of an ingredient shall not appear in the ingredient statement.

D. If properly used as specified by the USDA National Organic Program (7 CFR Part 205), the term "organic" does not apply to Subsection C of 21.18.3.23 NMAC.

E. A reference to the nature, form, or other attribute of an ingredient shall be allowed in the ingredient statement when that attribute imparts a distinctive characteristic to the pet food or specialty pet food.

F. Any reference to the percentage of an ingredient or combination of ingredients, by symbol or word, in the brand or product name or elsewhere on a pet food or specialty pet food label, shall be based in relation to the total weight of all ingredients in the product.

(1) The names of the ingredient(s) shall appear in order of predominance by weight in the product, provided that names of flavors due to their varying intensity can be in any order.

(2) Where water sufficient for processing is excluded from the declared percentage, the exclusion of water shall be indicated in words juxtaposed to, the same style and color print, and at least one-half the print size of the stated percentage (e.g., "95% beef exclusive of water" or "95 percent chicken and liver exclusive of water").

[21.18.3.23 NMAC - Rp, 21.18.3.23 NMAC, X/XX/XXXX]

21.18.3.24 PET FOOD AND SPECIALTY PET FOOD DRUGS AND ADDITIVES:

A. An artificial color may be used in a pet food or specialty pet food only if it has been shown to be harmless to pets or specialty pets. The permanent or provisional listing of an artificial color in the United States Food and Drug regulations as safe for use, together with the conditions, limitations, and tolerances, if any, incorporated therein, shall be deemed to be satisfactory evidence that the color is, when used pursuant to such regulations, harmless to pets or specialty pets.

B. Evidence may be required to prove the safety and efficacy or utility of a pet food or specialty pet food which contains additives or drugs, when used according to directions furnished on the label. Satisfactory evidence of the safety and efficacy of a pet food or specialty pet food may be established:

(1) when the pet food or specialty pet food contains such additives, the use of which conforms to the requirements of the applicable regulation in the Code of Federal Regulations, Title 21, or which are "prior sanctioned" or "informal review sanctioned" or "Generally Recognized as Safe" for such use; or

(2) when the pet food or specialty pet food itself is a drug or contains a drug as defined in 76-19A-2I NMSA 1978 and is "generally recognized as safe and effective" for the labeled use or is marketed subject to an application approved by the Food and Drug Administration under Title 21, U.S.C. 360(b).

C. When a drug is included in ~~NMAC - N, 9/30/2013~~ a pet food or specialty pet food, the format required by 21.18.3.9 A(2) NMAC for labeling medicated feeds shall be used.

[21.18.3.24 NMAC - Rp, 21.18.3.24 NMAC, X/XX/XXXX]

21.18.3.25 PET FOOD AND SPECIALTY PET FOOD FEEDING DIRECTIONS:

A. All pet foods and specialty pet foods shall bear feeding directions consistent with the purpose statement on the principal display panel.

B. Dog or cat food, including ~~snacks or~~ treats and food mixers, labeled as complete and balanced for any or all life stages~~,~~ as provided in ~~Paragraph (1) of~~ Subsection B of 21.18.3.21 NMAC or Subsection C of 21.18.3.~~24~~21 NMAC, except those pet foods labeled in accordance with Subsection D of 21.18.3.~~24~~21 NMAC, shall list feeding directions on the product label. ~~These directions shall be consistent with the intended use(s) indicated in the nutritional adequacy statement, unless a limited use or more limited life stage designation is declared elsewhere (e.g., "adult formula").~~ These directions shall be expressed in common terms and shall appear prominently on the

label. Feeding directions shall, at a minimum, ~~state, "Feed (weight/~~include the amount of familiar household unit of product~~)~~ per ~~(~~weight ~~only)~~ of dog (or cat~~)."~~). The frequency of feeding shall also be specified.

~~**B.** When a dog or cat food is intended for use by or under the supervision or direction of a veterinarian, the statement: "Use only as directed by your veterinarian" may be used in lieu of feeding directions.~~

C. Specialty pet food, including ~~snacks or~~ treats and food mixers, labeled as complete and balanced for any or all life stages~~,~~ as provided in Subsection ~~A~~B of 21.18.3.21 NMAC or Subsection C of 21.18.3.~~24 NMAC~~21NMAC or as a daily food, shall list feeding directions on the product label. These feeding directions shall be adequate to meet the ~~nutrient~~feeding requirements of the intended species of specialty pet ~~as recommended by the association of American feed control officials recognized nutritional authority~~. These directions shall be expressed in common terms and shall appear prominently on the label. The frequency of feeding shall also be specified.

D. Food supplements shall list feeding directions on the product label that, at minimum, include the quantity of feeding unit (e.g., tablets, capsules, granules, or liquids) per weight of animal. The frequency of feeding shall also be specified.

E. When a pet food or specialty pet food is intended for use by or under the supervision or direction of a veterinarian, the statement: "Use only as directed by your veterinarian" may be used in lieu of feeding directions.

[21.18.3.25 NMAC - ~~N, 9/30/2013~~Rp, 21.18.3.25 NMAC, X/XX/XXXX]

21.18.3.26 ~~PET FOOD AND SPECIALTY PET FOOD STATEMENTS~~DETERMINATION OF CALORIE CONTENT FOR PET FOODS:

A. ~~Except as required in 21.18.3.27 NMAC, the label of a dog or cat food may bear a statement of calorie content when the label meets all of the following:~~

~~**(1)** The statement shall be separate and distinct from the "Guaranteed Analysis" and shall appear under the heading "Calorie Content";~~

~~**(2)** The~~ statement shall be ~~measured~~determined in terms of metabolizable energy (ME) on an ~~"~~"as fed~~"~~" moisture basis ~~and must be expressed as "kilocalories per kilogram" ("kcal/kg") of product and may also be expressed as kilocalories per familiar household measure (e.g., cans, cups, pounds); and,~~

~~**(3)** The calorie content is determined~~ by one of the following methods~~:~~ then converted to Calories (kcal) per the familiar household unit (i.e., can, measuring cup, treat, or piece):

~~**(a)** by~~**(1)** By calculation (indicated with a "†"in the Pet Nutrition Facts) using the following ~~"modified atwater"~~"Modified Atwater" formula:

ME (kcal/kg) = 10[(3.5 ~~x~~× CP) + (8.5 ~~x~~× CF) + (3.5 ~~x~~× NFE~~)~~]~~)~~], where~~:~~ ME = metabolizable energy

~~,~~ CP = % crude protein ~~"~~"as fed~~"~~

~~,"~~ CF = % crude fat ~~"~~"as fed~~"~~

~~,"~~ NFE = % nitrogen-free extract (carbohydrate) ~~"~~"as fed~~"~~

~~,"~~ and the percentages of CP and CF are the ~~arithmetic averages from proximate analyses of at least four production batches of the product; and the~~average values of these components in the product as determined by sound scientific methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product. The NFE is calculated as the difference between 100 and the sum of CP, CF, and the percentages of crude fiber, moisture, and ash (determined in the same manner as CP and CF); or~~,~~

~~**(b)**~~**(2)** in accordance with ~~a~~ testing ~~procedure established by the~~procedures determined by association of American feed control officials~~.~~ (indicated as "(fed)" in the Pet Nutrition Facts).

~~**(4)**~~**B.** An affidavit shall be provided upon the request ~~to~~of the department substantiating that the ~~calorie~~Calorie content was determined by:

~~**(a)** Subparagraph (a) of~~ **(1)** Paragraph (~~3~~1) of Subsection A of 21.18.3.26 NMAC in which case the ~~results of all the analyses~~summary data used in the calculation shall ~~accompany~~be included in the affidavit; or

~~**(b)** Subparagraph (b) of~~ **(2)** Paragraph (~~3~~2) of Subsection A of 21.18.3.26 NMAC in which case the summary data used in the determination of ~~calorie~~Calorie content shall accompany the affidavit.

~~**(5)** The calorie content statement shall appear as one of the following:~~

~~**(a)** The claim on the label or other labeling shall be followed parenthetically by the word "calculated" when the calorie content is determined in accordance with Subparagraph (a) of Paragraph (3) of Subsection A of 21.18.3.26 NMAC; or~~

~~**(b)** The value of calorie content stated on the label which is determined in accordance with Subparagraph (b) of Paragraph (3) of Subsection A of 21.18.3.26 NMAC shall not exceed or understate the value determined in accordance with Subparagraph (a) of Paragraph (3) of Subsection A of 21.18.3.26 NMAC by more than fifteen percent.~~

~~**B**~~ **C.** The Calories from protein, fat, and carbohydrate as required in the Pet Nutrition Facts are determined using the following calculation, then converted to Calories (kcal) per the familiar household unit (i.e., can, measuring cup, treat, or piece):

(1) Protein: ME (kcal/kg) = 10(3.5 × CP), where ME = metabolizable energy, CP = % crude protein "as fed" and the percentage of CP is the average value in the product as determined by sound scientific methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product.

(2) Fat: ME (kcal/kg) = 10(8.5 × CF), where ME = metabolizable energy, CF = % crude fat "as fed" and the percentage of CF is the average value in the product as determined by sound scientific methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product.

(3) Carbohydrate: ME (kcal/kg) = 10(3.5 × NFE), where ME = metabolizable energy, NFE is calculated as the difference between 100 and the sum of CP, CF, and the percentages of crude fiber, moisture, and ash; CP = % crude protein "as fed," CF = % crude fat "as fed" and the percentages are the average values of these components in the product as determined by sound scientific methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product.

D. Comparative claims shall not be false, misleading, or given undue emphasis and shall be based on the same methodology for the products compared.

[21.18.3.26 NMAC - ~~N, 9/30/2013; A, 1/1/2021~~Rp, 21.18.3.26 NMAC, X/XX/XXXX]

21.18.3.27 PET FOOD AND SPECIALTY PET FOOD DESCRIPTIVE TERMS:

A. Calorie terms

(1) "Light"

(a) A dog food product which bears on its label the terms "light," "lite," "low calorie," or words of similar designation shall:

(i) contain no more than 3100 kcal ME/kg for products containing less than 20% moisture, no more than 2500 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 900 kcal ME/kg for products containing 65% or more moisture; and

~~**(ii)** include on the label a calorie content statement: 1) in accordance with the format provided in 21.18.3.26 NMAC; and 2) which states no more than 3100 kcal ME/kg for products containing less than 20% moisture, no more than 2500 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 900 kcal ME/kg for products containing 65% or more moisture; and~~

~~**(iii**~~ **(ii)** include on the label feeding directions which reflect a reduction in calorie intake consistent with the ~~intended use~~purpose.

(b) A cat food product which bears on its label the terms "light," "lite," "low calorie," or words of similar designation shall:

(i) contain no more than 3250 kcal ME/kg for products containing less than 20% moisture, no more than 2650 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 950 kcal ME/kg for products containing 65% or more moisture; and

~~**(ii)** include on the label a calorie content statement: 1) in accordance with the format provided in 21.18.3.26 NMAC; and 2) which states no more than 3250 kcal ME/kg for products containing less than 20% moisture, no more than 2650 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 950 kcal ME/kg for products containing 65% or more moisture; and~~

~~**(iii**~~ **(ii)** include on the label feeding directions which reflect a reduction in calorie intake consistent with the ~~intended use~~purpose.

(2) "Less" or "reduced calories"

(a) A dog or cat food product which bears on its label a claim of "less calories," reduced calories," or words of similar designation shall include on the label:

(i) the name of the product of comparison and the percentage of calorie reduction (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears; and

(ii) the comparative statement printed in type of the same color and style and at least one-half the type size used in the claim; and

~~**(iii)** a calorie content statement in accordance with the format provided in 21.18.3.26 NMAC; and~~

~~**(iv**~~ **(iii)** feeding directions which reflect a reduction in calories compared to feeding directions for the product of comparison.

(b) A comparison between products in different categories of moisture content (i.e., less than 20%, 20% or more but less than 65%, 65% or more) is misleading.

B. Fat terms

(1) "Lean"

(a) A dog food product which bears on its label the terms "lean," "low fat," or words of similar designation shall:

(i) contain no more than 9% crude fat for products containing less than 20% moisture, no more than 7% crude fat for products containing 20% or more but less than 65% moisture, and no more than 4% crude fat for products containing 65% or more moisture;

(ii) include on the product label in the guaranteed analysis: 1) A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in Paragraph (~~1~~3) of Subsection A of 21.18.3.~~21~~22; and 2) A maximum crude fat guarantee which is no more than 9% crude fat for products containing less than 20% moisture, no more than 7% crude fat for products containing 20% or more but less than 65% moisture, and no more than 4% crude fat for products containing 65% or more moisture.

(b) A cat food product which bears on its label the terms "lean," "low fat," or words of similar designation shall:

(i) contain a maximum percentage of crude fat which is no more than 10% crude fat for products containing less than 20% moisture, no more than 8% crude fat for products containing 20% or more but less than 65% moisture, and no more than 5% crude fat for products containing 65% or more moisture; and

(ii) include on the product label in the guaranteed analysis: 1) A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in Paragraph (~~1~~3) of Subsection A of 21.18.3.~~21~~22 NMAC; and 2) A maximum crude fat guarantee which is no more than 10% crude fat for products containing less than 20% moisture, no more than 8% crude fat for products containing 20% or more but less than 65% moisture, and no more than 5% crude fat for products containing 65% or more moisture.

(~~4~~2) "Less" or "reduced fat"

(a) A dog or cat food product which bears on its label a claim of "less fat," "reduced fat," or words of similar designation, shall include on the label:

(i) the name of the product of comparison and the percentage of fat reduction (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears; and

(ii) the comparative statement printed in type of the same color and style and at least one-half the type size used in the claim; and

(iii) a maximum crude fat guarantee in the guaranteed analysis immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in Paragraph (1) of Subsection A of 21.18.3.21 NMAC.

(b) A comparison on the label between products in different categories of moisture content (i.e., less than 20%, 20% or more but less than 65%, 65% or more) is misleading.

C. Carbohydrate Terms

(1) "Low" Carbohydrate, Dietary Starch, and Sugars Claims. A claim of "low carbohydrates," "low dietary starch," "low sugars" (or a combination thereof) is not allowed.

(2) "Less" or "Reduced" Carbohydrates, Dietary Starch, and Sugars claims.

(a) A dog or cat food product that bears on its label a claim of "less" or "reduced [blank]" (blank is to be completed by using "carbohydrates," "dietary starch," or "sugars"), or words of similar designation, shall include on the label:

(i) The name of the product of comparison and the percentage of reduction in total dietary starch plus sugars (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears; and

(ii) the comparative statement printed in type of the same color and style and not less than one-half the size used in the claim; and

(iii) maximum guarantees for dietary starch and sugars as stated in Paragraph (3) of Subsection A of 21.18.3.22 NMAC.

(b) A comparison between products in different categories of moisture content (i.e., less than 20%, 20% or more but less than 65%, 65% or more) is misleading.

[21.18.3.27 NMAC - ~~N, 9/30/2013~~Rp, 21.18.3.27 NMAC, X/XX/XXXX]

21.18.3.28 PET FOOD AND SPECIALTY PET FOOD MANUFACTURER OR DISTRIBUTOR; NAME AND ADDRESS:

A. The label of a pet food or specialty pet food shall specify the business or corporate name and address of the manufacturer or distributor. This information shall appear under the header "Manufactured for (blank)," "Distributed by (blank)," or any other wording that expresses the facts, if the business whose name appears on the label is not the manufacturer. The statement of the place of business shall include the street address, city, state, and zip code; however, the street address may be omitted if such street address is shown in a ~~current city directory or telephone directory for the city listed on the label~~readily accessible, widely published, and publicly available resource, including but not limited to a printed directory, electronic database, or website.

B. When a person manufactures or distributes a pet food or specialty pet food in a place other than the principal place of business, the label may state the principal place of business in lieu of the actual place where each package of such pet food or specialty pet food was manufactured or packaged or from where each package is to be distributed.

[21.18.3.28 NMAC - ~~N, 9/30/2013~~Rp, 21.18.3.28 NMAC, X/XX/XXXX]

21.18.3.29 HANDLING AND STORAGE INSTRUCTIONS:

A. A product which bears handling and storage instructions shall display such instructions under the bolded header "Handling and Storage Instructions:" that is separate and distinct from any feeding directions. A header is not required for small packages with a total printable area less than 40 square inches. If any graphics are used to support handling and storage instructions, only the following graphics may be included, with the handling and storage instructions section, as applicable. The graphics with color and accompanying text shall be obtained from the association of American feed control officials website.



B. The handling and storage instructions, if present, shall be displayed in a conspicuous manner so to render them likely to be read under typical conditions of use. Any use of the handling and storage instructions graphics shall be no smaller than:

Panel Size	Minimum Graphic Size (top of circle to bottom of text)
≤40 in.^{2}	1/2 in.
>40 – ≤100 in.^{2}	1 in.
>100 – ≤400 in.^{2}	1 3/4 in.
>400 in.^{2}	2 in.

[21.18.3.29 NMAC - N, X/XX/XXXX]

21.18.3.30 REGISTRATION EXPIRATION DATE: For the purpose of Section 76-19A-4A, NMSA 1978, all registrations shall expire annually on December 31.
[21.18.3.29 NMAC - Rp, 21.18.3.18 NMAC, 9/30/2013 X/XX/XXXX]

21.18.3.31 INSPECTION FEES:

A. An inspection fee of fifteen twenty cents ($0.15 25) per ton is hereby established to be effective on all commercial feeds sold on and after September 30, 2013; except that feed for which the department has not developed an inspection service at this time.

B. An inspection fee of twenty-five dollars ($25.00) is hereby established for each brand of commercial feed distributed in individual packages of ten (10) pounds or less sold after September 30, 2013, in New Mexico.
[21.18.3.30 NMAC - Rp, 21.18.3.19 NMAC, 9/30/2013 X/XX/XXXX]

21.18.3.32 SPAY AND NEUTER PROGRAM FEE:

A. Additional Fees.

In addition to the commercial feed registration fee, an additional annual fee spay and neuter program fee of one hundred dollars ($100.00) shall be collected on each pet food registered with the department. This fee shall be implemented as follows:

~~**(1)** Beginning January 1, 2021 and ending December 31, 2021, fifty dollars ($50.00)~~

~~**(2)** Beginning January 1, 2022 and ending December 31, 2022, seventy-five dollars ($75.00)~~

~~**(3)** Beginning January 1, 2023, one hundred dollars ($100.00)~~

B. Exemptions

(1) A pet food manufacturer shall be exempt of the spay and neuter program fees upon submission of a notarized affidavit attesting that tax-year annual gross revenue from the distribution of pet food is no more than three million dollars. The spay and neuter program fee exemption affidavit shall be submitted to the department on a form furnished by the department.

(2) A pet food manufacturer shall be exempt of the spay and neuter program fees for a specific product upon submission of a notarized affidavit attesting that the specific product meets the definition of prescription diet. The spay and neuter program fee exemption affidavit shall be submitted to the department on a form furnished by the department.

C. Distribution, ninety-six percent of this additional fee collected shall be deposited with the state treasurer to credit the statewide spay and neuter subaccount of the animal care and facility fund. Four percent of this additional fee collected shall be distributed to the department to administer New Mexico Commercial Feed Act.
[21.18.3.32 NMAC - Rp, 21.18.3.31 NMAC ~~- N, 1/1/2021~~, X/XX/XXXX]

HISTORY OF 21.18.3 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 73-2, Regulatory Order No. 4, Feed Regulations, filed 5/15/1973.
NMDA Rule 73-3, Regulatory Order No. 5, Commercial Feed Regulations, filed 5/15/1973.
NMDA Rule 73-3, Amendment No. 1, Regulatory Order No. 8, Commercial Feed Exemptions, filed 7/1/1976.
NMDA Rule 73-10, Regulatory Order No. 6, filed 11/27/1973.
NMDA Rule 76-5, Regulatory Order No. 7, Feed Inspection Fees, filed 9/28/1976.
NMDA Rule 84-2, Additional Requirements for Liquid Feed Labeling, filed 10/23/1984.

History of Repealed Material:
21.18.3 NMAC, - Commercial Feeds, filed 05/12/2009 - Duration expired effective 9/30/2013.
21.18.3 NMAC - Commercial Feeds, filed 9/30/2013 was repealed and replaced by 21.18.3 NMAC – Commercial Feeds, effective X/XX/XXXX.

Final Adopted Rule

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 18 SEEDS, FEEDS, AND FERTILIZERS
PART 3 COMMERCIAL FEEDS

21.18.3.1 ISSUING AGENCY: New Mexico State University, New Mexico Department of Agriculture.
[21.18.3.1 NMAC - Rp, 21.18.3.1 NMAC, 10/20/2026]
[MSC 3189, Box 30005, Las Cruces, New Mexico 88003-8005, Telephone No. (575) 646-3007]

21.18.3.2 SCOPE: Part 3 shall apply to any person distributing commercial feeds in New Mexico.
[21.18.3.2 NMAC - Rp, 21.18.3.2 NMAC, 10/20/2026]

21.18.3.3 STATUTORY AUTHORITY: Granted to the board of regents of New Mexico state university under the New Mexico Commercial Feed Act, Chapter 76, Article 19A, Sections 1 through 17, New Mexico Statutes Annotated 1978.
[21.18.3.3 NMAC - Rp, 21.18.3.3 NMAC, 10/20/2026]

21.18.3.4 DURATION: Permanent.
[21.18.3.4 NMAC - Rp, 21.18.3.4 NMAC, 10/20/2026]

21.18.3.5 EFFECTIVE DATE: October, 20, 2026, unless a later date is cited at the end of a section.
[21.18.3.5 NMAC - Rp, 21.18.3.5 NMAC, 10/20/2026]

21.18.3.6 OBJECTIVE: The objective of Part 3 of Chapter 18 is to protect the consumers of commercial feed products by establishing standards for their labeling, registration, and sale.
[21.18.3.6 NMAC - Rp, 21.18.3.6 NMAC, 10/20/2026]

21.18.3.7 DEFINITIONS:

A. The names and definitions for commercial feeds shall be the official definition of feed ingredients adopted by the association of American feed control officials, except as the department designates otherwise in specific cases.

B. The terms used in reference to commercial feeds shall be the official feed terms adopted by the association of American feed control officials, except as the department designates otherwise in specific cases.

C. The following commodities are hereby declared exempt from the definition of commercial feed, under the provisions of Section 76-19A-5A NMSA 1978: raw meat and loose salt when unground and when not mixed or intermixed with other materials: provided that these commodities are not adulterated within the meaning of Section 76-19A-8 NMSA 1978.

D. The definitions in Section 76-19A-2 NMSA 1978 shall apply in addition to the following:

(1) Principal display panel means the part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

(2) Ingredient statement means a collective and contiguous listing on the label of the ingredients of which the pet food or specialty pet food is composed.

(3) Immediate container means the unit, can, box, tin, bag, or other receptacle or covering in which a pet food or specialty pet food is displayed for sale to retail purchasers, but does not include containers used as shipping containers.

(4) All life stages means gestation/lactation, growth, and adult maintenance life stages for dogs, cats, and other mammals or adult (including breeding animals) and juvenile life stages for non-mammalian species.

(5) Family means a group of products, which are nutritionally adequate for any or all life stages based on their nutritional similarity to a lead product, which has been successfully test-fed according to an association of American feed control officials feeding protocol(s).

(6) Daily food means a specialty pet food product, other than a treat, food mixer or food supplement, for specialty pet species with no recognized nutritional authority.

(7) Familiar household unit means a typical feeding unit in volume or count (e.g., can, measuring cup, treat, or piece).

(8) Food mixer means a pet or specialty pet food product that is intended to top, accompany, or contribute to a complete diet but is not generally intended to be a complete diet.

(9) Food supplement means a pet or specialty pet food product that is intended to supply specific nutrient(s) or other food components but is not a complete diet.

(10) Pet nutrition facts means a graphic box located on the label containing nutritional information for a pet food product.

(11) Specialty pet nutrition facts means a graphic box located on the label containing nutritional information for a specialty pet food product.

(12) Veterinary diet means a pet or specialty pet food product that is intended only to be used at the direction of and under the supervision of a licensed veterinarian.

(13) Raw milk means any milk or milk product, exclusive of USDA licensed veterinary biologics, from any species other than humans, that has not been pasteurized in accordance with processes recognized by the US food and drug administration.

(14) Prescription diet see Veterinary diet.

E. Department means the New Mexico department of agriculture.

[21.18.3.7 NMAC - Rp, 21.18.3.7 NMAC, 10/20/2026]

21.18.3.8 LABEL FORMAT:

A. Commercial feed, other than customer-formula feed, shall be labeled with the information prescribed in this regulation on the principal display panel of the product and in the following format:

(1) product name and brand name, if any, as stipulated in Subsection A of 21.18.3.9 NMAC;

(2) if a drug is used, label as stipulated in Subsection B of 21.18.3.9 NMAC;

(3) purpose statement as stipulated in Subsection C of 21.18.3.9 NMAC;

(4) guaranteed analysis as stipulated in Subsection D of 21.18.3.9 NMAC;

(5) feed ingredients as stipulated in Subsection E of 21.18.3.9 NMAC and in 21.18.3.12 NMAC;

(6) directions for use and precautionary statements as stipulated in Subsection F of 21.18.3.9 NMAC and in 21.18.3.13 NMAC;

(7) name and principal mailing address of the manufacturer or person responsible for distributing the feed as stipulated in Subsection G of 21.18.3.9 NMAC;

(8) quantity statement.

B. Principal display panel**:**

(1) The information as required in Paragraphs (1), (2), (3), and (8) of Subsection A of 21.18.3.8 NMAC must appear in its entirety on the principal display panel.

(2) The information required by Paragraphs (4), (5), (6), and (7) of Subsection A of 21.18.3.8 NMAC shall be displayed in a prominent place on the feed tag or label, but not necessarily on the principal display panel. When a precautionary statement required by Paragraph (6) of Subsection A of 21.18.3.8 NMAC does not appear on the principal display panel, it must be referenced on the principal display panel with a statement such as "See back of label for precautions."

C. None of the information required by 21.18.3.8 NMAC shall be subordinated or obscured by other statements or designs.

D. Customer-formula feed shall be accompanied with the information prescribed in this regulation using labels, invoice, delivery ticket, or other shipping document bearing the following information:

(1) the name and address of the manufacturer;

(2) the name and address of the purchaser;

(3) the date of sale or delivery;

(4) the customer-formula feed name and brand name if any;

(5) the product name and net quantity of each registered commercial feed and each other ingredient used in the mixture;

(6) the direction for use and precautionary statements as required by 21.18.3.13 NMAC and 21.18.3.14 NMAC.

(7) If a drug containing product is used:

(a) the purpose of the medication (claim statement);

(b) the established name of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with Subsection D of 21.18.3.10 NMAC.

[21.18.3.8 NMAC - Rp, 21.18.3.8 NMAC, 10/20/2026]

21.18.3.9 LABEL INFORMATION: Commercial feed, other than customer-formula feed, shall be labeled

with the information prescribed in this regulation.

A. Product name and brand name, if any.

(1) The brand or product name must be appropriate for the intended use of the feed and must not be misleading. If the name indicates the feed is made for a specific use, the character of the feed must conform therewith. A commercial feed for a particular animal class must be suitable for that purpose.

(2) Commercial, registered brand, or trade names are not permitted in guarantees or ingredient listings and only in the product name of feeds produced by or for the firm holding the rights to such a name.

(3) The name of a commercial feed shall not be derived from one or more ingredients of a mixture to the exclusion of other ingredients and shall not be one representing any components of a mixture unless all components are included in the name: Provided that if any ingredient or combination of ingredients is intended to impart a distinctive characteristic to the product which is of significance to the purchaser, the name of that ingredient or combination of ingredients may be used as a part of the brand name or product name if the ingredients or combination of ingredients is quantitatively guaranteed in the guaranteed analysis, and the brand or product name is not otherwise false or misleading.

(4) The word "protein" shall not be permitted in the product name of a feed that contains added non-protein nitrogen.

(5) When the name carries a percentage value, it shall be understood to signify protein or equivalent protein content only, even though it may not explicitly modify the percentage with the word "protein": provided that other percentage values may be permitted if they are followed by the proper description and conform to good labeling practice. Digital numbers shall not be used in such a manner as to be misleading or confusing to the customer.

(6) Single ingredient feeds shall have a product name in accordance with the designated definition of feed ingredients as recognized by the association of American feed control officials unless the department designates otherwise.

(7) The word "vitamin," or a contraction thereof, or any word suggesting vitamin can be used only in the name of a feed which is represented to be a vitamin supplement, and which is labeled with the minimum content of each vitamin declared, as specified in Subsection C of 21.18.3.10 NMAC.

(8) The term "mineralized" shall not be used in the name of a feed except for "TRACE MINERALIZED SALT." When so used, the product must contain significant amounts of trace minerals, which are recognized as essential for animal nutrition.

(9) The term "meat" and "meat by-products" shall be qualified to designate the animal from which the meat and meat by-products is derived unless the meat and meat by-products are made from cattle, swine, sheep and goats.

(10) If the commercial feed consists of raw milk, the words “Raw (blank) Milk” shall appear conspicuously on the principal display panel. (Blank is to be completed by using the species of animal from which the raw milk is collected.)

B. If a drug is used:

(1) The word "medicated" shall appear directly following and below the product name in type size no smaller than one-half the type size of the product name.

(2) Purpose statement as required in Subsection C of 21.18.3.9 NMAC.

(3) The purpose of medication (claim statement).

(4) An active ingredient statement listing the active drug ingredients by their established name and the amounts in accordance with Subsection D of 21.18.3.10 NMAC.

C. Purpose statement:

(1) The statement of purpose shall contain the specific species and animal class(es) for which the feed is intended as defined in Subsection D of 21.18.3.9 NMAC.

(2) The manufacturer shall have flexibility in describing in more specific and common language the defined animal class, species, and purpose while being consistent with the category of animal class defined in Subsection D of 21.18.3.9 NMAC which may include, but is not limited to, weight range(s), sex, or ages of the animal(s) for which the feed is manufactured.

(3) The purpose statement may be excluded from the label if the product name includes a description of the species and animal class(es) for which the product is intended.

(4) The purpose statement of a premix for the manufacture of feed may exclude the animal class and species and state "For Further Manufacture of Feed" if the nutrients contained in the premix are guaranteed and sufficient for formulation into various animal species feeds and premix specifications are provided by the end

user of the premix. (This section applicable to commercial feeds regulated under Item (x) of Subparagraph (b) of Paragraph (11) of Subsection D of 21.18.3.9 NMAC.

(5) The purpose statement of a single purpose ingredient blend, such as a blend of animal protein products, milk products, fat products, roughage products, or molasses products may exclude the animal class and species and state "For Further Manufacture of Feed" if the label guarantees of the nutrients contained in the single purpose nutrient blend are sufficient to provide for formulation into various animal species feeds. (This section applicable to commercial feeds regulated under Item (x) of Subparagraph (b) of Paragraph (11) of Subsection D of 21.18.3.9 NMAC.)

(6) The purpose statement of a product shall include a statement of enzyme functionality if enzymatic activity is represented in any manner.

(7) The statement of purpose for single ingredient feeds shall be stated as “single ingredient feed” or “feed ingredient.” The manufacturer of a single ingredient feed or feed ingredient shall have flexibility in describing in more specific and common language the intended use of the feed ingredient dependent on species and class.

(8) The purpose statement of a feed intended as a treat for a designated species (exclusive of pets and specialty pets) shall include the words “treat” or “snack” and the intended species conspicuously on the principal display panel.

D. Guarantees - crude protein, equivalent crude protein from non-protein nitrogen, amino acids, crude fat, crude fiber, acid detergent fiber, calcium, phosphorus, salt, and sodium shall be the sequence of nutritional guarantees when such guarantee is stated. Other required and voluntary guarantees should follow in a general format such that the units of measure used to express guarantees (percentage, parts per million, international units, etc.) are listed in a sequence that provides a consistent grouping of the units of measure.

(1) Required guarantees for swine formula feeds.

(a) animal classes:

(i) pre-starter - 2 to 11 pounds;

(ii) starter - 11 to 44 pounds;

(iii) grower - 44 to 110 pounds;

(iv) finisher - 110 to market weight;

(v) gilts, sows, and adult boars;

(vi) lactating gilts and sows;

(b) guaranteed analysis for swine complete feeds and supplements (all animal classes):

(i) minimum percentage of crude protein;

(ii) minimum percentage of lysine;

(iii) minimum percentage of crude fat;

(iv) maximum percentage of crude fiber;

(v) minimum and maximum percentage of calcium;

(vi) minimum percentage of phosphorus;

(vii) minimum and maximum percentage of salt (if added);

(viii) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;

(ix) minimum selenium in parts per million (ppm);

(x) minimum zinc in parts per million (ppm).

(2) Required guarantees for formula poultry feeds (broilers, layers, and turkeys).

(a) animal classes:

(i) layer - chickens that are grown to produce eggs for food, e.g., table eggs: 1) starting/growing - from day of hatch to approximately 10 weeks of age; 2) finisher - from approximately 10 weeks of age to time first egg is produced. (approximately 20 weeks of age); 3) laying - from time first egg is laid throughout the time of egg production; 4) breeders - chickens that produce fertile eggs for hatch replacement layers to produce eggs for food, table eggs, from time first egg is laid throughout their productive cycle;

(ii) broilers - chickens that are grown for human food: 1) starting/growing - from day of hatch to approximately 5 weeks of age; 2) finisher - from approximately 5 weeks of age to market, (42 to 52 days); 3) breeders - hybrid strains of chickens whose offspring are grown for human food, (broilers), any age and either sex;

(iii) broilers, breeders - chickens whose offspring are grown for human food (broilers): 1) starting/growing - from day of hatch until approximately 10 weeks of age; 2) finishing - from

approximately 10 weeks of age to time first egg is produced, approximately 20 weeks of age; 3) laying - fertile egg producing chickens (broilers/roasters) from day of first egg throughout the time fertile eggs are produced;

(iv) turkeys: 1) starting/growing - turkeys that are grown for human food from day of hatch to approximately 13 weeks of age (females) and 16 weeks of age (males); 2) finisher - turkeys that are grown for human food, females from approximately 13 weeks of age to approximately 17 weeks of age and males from 16 weeks of age to 20 weeks of age (or desired market weight); 3) laying - female turkeys that are producing eggs from time first egg is produced throughout the time they are producing eggs; 4) breeder - turkeys that are grown to produce fertile eggs from day of hatch to time first egg is produced (approximately 30 weeks of age), both sexes;

(b) guaranteed analysis for poultry complete feeds and supplements (all animal classes):

(i) minimum percentage of crude protein;

(ii) minimum percentage of lysine;

(iii) minimum percentage of methionine;

(iv) minimum percentage of crude fat;

(v) maximum percentage of crude fiber;

(vi) minimum and maximum percentage of calcium;

(vii) minimum percentage of phosphorus;

(viii) minimum and maximum percentage of salt (if added);

(ix) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.

(3) Required guarantees for beef cattle formula feeds.

(a) animal classes:

(i) calves (birth to weaning);

(ii) cattle on pasture (may be specific as to production stage; e.g. stocker, feeder, replacement heifers, brood cows, bulls, etc.);

(iii) feedlot cattle;

(b) guaranteed analysis for beef complete feeds and supplements (all animal classes):

(i) minimum percentage of crude protein;

(ii) maximum percentage of equivalent crude protein from non-protein nitrogen (NPN) when added;

(iii) minimum percentage of crude fat;

(iv) maximum percentage of crude fiber;

(v) minimum and maximum percentage of calcium;

(vi) minimum percentage of phosphorus;

(vii) minimum and maximum percentage of salt (if added);

(viii) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;

(ix) minimum percentage of potassium;

(x) minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added);

(c) guaranteed analysis for beef mineral feeds (if added):

(i) minimum and maximum percentage calcium;

(ii) minimum percentage of phosphorus;

(iii) minimum and maximum percentage of salt;

(iv) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;

(v) minimum percentage of magnesium;

(vi) minimum percentage of potassium;

(vii) minimum copper in parts per million (ppm);

(viii) minimum selenium in parts per million (ppm);

(ix) minimum zinc in parts per million (ppm);

(x) minimum vitamin A, other than precursors of vitamin A, in international units per pound.

(4) Required guarantees for dairy formula feeds.

(a) animal classes:

(i) veal milk replacer - milk replacer to be fed for veal production;

(ii) herd milk replacer - milk replacer to be fed for herd replacement calves;

(iii) starter - approximately 3 days to 3 months;

(iv) non-lactating dairy cattle: replacement dairy heifers, dairy bulls and dairy calves

(v) lactating dairy cattle;

(vi) non-lactating dairy cattle;

(b) guaranteed analysis for veal and herd replacement milk replacer:

(i) minimum percentage crude protein;

(ii) minimum percentage crude fat;

(iii) maximum percentage of crude fiber;

(iv) minimum and maximum percentage calcium;

(v) minimum percentage of phosphorus;

(vi) minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added);

(c) guaranteed analysis for dairy cattle complete feeds and supplements:

(i) minimum percentage of crude protein;

(ii) maximum percentage of equivalent crude protein from non-protein nitrogen (NPN) when added;

(iii) minimum percentage of crude fat;

(iv) maximum percentage of crude fiber;

(v) maximum percentage of acid detergent fiber (ADF);

(vi) minimum and maximum percentage of calcium;

(vii) minimum percentage of phosphorus;

(viii) minimum selenium in parts per million (ppm);

(ix) minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added);

(d) required guaranteed analysis for dairy mixing and pasture mineral (if added):

(i) minimum and maximum percentage of calcium;

(ii) minimum percentage of phosphorus;

(iii) minimum and maximum percentage of salt;

(iv) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;

(v) minimum percentage of magnesium;

(vi) minimum percentage of potassium;

(vii) minimum selenium in parts per million (ppm);

(viii) minimum vitamin A, other than the precursors of vitamin A, in international units per pound.

(5) Required guarantees for equine formula feeds.

(a) animal classes:

(i) growing;

(ii) broodmare;

(iii) maintenance;

(iv) performance (including stallions);

(b) guaranteed analysis for equine complete feeds and supplements (all animal classes):

(i) minimum percentage of crude protein;

(ii) minimum percentage of crude fat;

(iii) maximum percentage of crude fiber;

(iv) maximum percentage of acid detergent fiber (adf)

(v) maximum percentage of neutral detergent fiber (ndf)

(vi) minimum and maximum percentage of calcium;

(vii) minimum percentage of phosphorus;

(viii) minimum copper in parts per million (ppm);

(ix) minimum selenium in parts per million (ppm);

(x) minimum zinc in parts per million (ppm);

(xi) minimum vitamin A, other than the precursors of vitamin A, in international units per pound (if added).

(c) guaranteed analysis for equine mineral feeds (all animal classes):

(i) minimum and maximum percentage of calcium;

(ii) minimum percentage of phosphorus;

(iii) minimum and maximum percentage of salt (if added);

(iv) minimum and maximum percentage of sodium shall be guaranteed only when the total sodium exceeds that furnished by the maximum salt guarantee;

(v) minimum copper in parts per million (ppm);

(vi) minimum selenium in parts per million (ppm);

(vii) minimum zinc in parts per million (ppm);

(viii) minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).

(6) Required guarantees for goat formula feeds.

(a) animal classes:

(i) starter;

(ii) grower;

(iii) finisher;

(iv) breeder;

(v) lactating;

(b) guaranteed analysis for goat complete feeds and supplements (all animal classes):

(i) minimum percentage of crude protein;

(ii) maximum percentage of equivalent crude protein from non-protein nitrogen (NPN) when added;

(iii) minimum percentage of crude fat;

(iv) maximum percentage of crude fiber;

(v) maximum percentage of acid detergent fiber

(vi) minimum and maximum percentage of calcium;

(vii) minimum percentage of phosphorus;

(viii) minimum and maximum percentage of salt (if added);

(ix) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;

(x) minimum and maximum copper in parts per million (ppm) (if added);

(xi) minimum selenium in parts per million (ppm);

(xii) minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).

(7) Required guarantees for sheep formula feeds:

(a) animal classes:

(i) starter;

(ii) grower;

(iii) finisher;

(iv) breeder;

(v) lactating;

(b) guaranteed analysis for sheep complete feeds and supplements (all animal classes):

(i) minimum percentage of crude protein;

(ii) maximum percentage of equivalent crude protein from non-protein nitrogen (NPN) when added;

(iii) minimum percentage of crude fat;

(iv) maximum percentage of crude fiber;

(v) minimum and maximum percentage of calcium;

(vi) minimum percentage of phosphorus;

(vii) minimum and maximum percentage of salt (if added);

(viii) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;

(ix) minimum and maximum copper in parts per million (ppm) (if added, or if total copper exceeds 20 ppm);

(x) minimum selenium in parts per million (ppm);

(xi) minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).

(8) Required guarantees for duck and geese formula feeds.

(a) animal classes:

(i) ducks: 1) starter - 0 to 3 weeks of age; 2) grower - 3 to 6 weeks of age; 3) finisher - 6 weeks to market; 4) breeder developer - 8 to 19 weeks of age; 5) breeder - 22 weeks to end of lay;

(ii) geese: 1) starter - 0 to 4 weeks of age; 2) grower - 4 to 8 weeks of age; 3) finisher - 8 weeks to market; 4) breeder developer - 10 to 22 weeks of age; 5) breeder - 22 weeks to end of lay.

(b) guaranteed analysis for duck and geese complete feeds and supplements (for all animal classes):

(i) minimum percentage of crude protein;

(ii) minimum percentage of crude fat;

(iii) maximum percentage of crude fiber;

(iv) minimum and maximum percentage of calcium;

(v) minimum percentage of phosphorus;

(vi) minimum and maximum percentage of salt (if added);

(vii) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.

(9) Required guarantees for fish complete feeds and supplements.

(a) animal species shall be declared in lieu of animal class:

(i) trout;

(ii) catfish;

(iii) species other than trout or catfish;

(b) guaranteed analysis for all fish complete feeds and supplements:

(i) minimum percentage of crude protein;

(ii) minimum percentage of crude fat;

(iii) maximum percentage of crude fiber;

(iv) minimum percentage of phosphorus.

(10) Required guarantees for rabbit complete feeds and supplements.

(a) animal classes:

(i) grower - 4 to 12 weeks of age;

(ii) breeder - 12 weeks of age and over;

(b) guaranteed analysis for rabbit complete feeds and supplements (all animal classes):

(i) minimum percentage of crude protein;

(ii) minimum percentage of crude fat;

(iii) minimum and maximum percentage of crude fiber (the maximum crude fiber shall not exceed the minimum by more than 5.0 units);

(iv) minimum and maximum percentage of calcium;

(v) minimum percentage of phosphorus;

(vi) minimum and maximum percentage of salt (if added);

(vii) minimum and maximum percentage of total sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee;

(viii) minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).

(11) The required guarantees of grain mixtures with or without molasses and feeds other than those described in Paragraphs (1) through (9) of Subsection D of 21.18.3.9 NMAC shall include the following items, unless exempt in Paragraph (12) of Subsection D of 21.18.3.9 NMAC, in the order listed:

(a) animal class(es) and species for which the product is intended.

(b) guaranteed analysis:

(i) minimum percentage crude protein;

(ii) maximum or minimum percentage of equivalent crude protein from non-protein nitrogen as required in Subsection E of 21.18.3.10 NMAC;

(iii) minimum percentage of crude fat;

(iv) maximum percentage of crude fiber;

(v) minerals in formula feeds, to include in the following order: 1) minimum and maximum percentages of calcium; 2) minimum percentage of phosphorus; 3) minimum and maximum percentage of salt (if added); 4) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee; 5) other minerals;

(vi) minerals in feed ingredients - as specified by the official definitions of the association of American feed control officials;

(vii) vitamins in such terms as specified in Subsection C of 21.18.3.10 NMAC;

(viii) total sugars as invert on dried molasses products or products being sold primarily for their sugar content;

(ix) viable lactic acid producing microorganisms for use in silages in terms specified in Subsection G of 21.18.3.10 NMAC;

(x) a commercial feed (e.g. vitamin/mineral premix, base mix, etc.) intended to provide a specialized nutritional source for use in the manufacture of other feeds, must state its intended purpose and guarantee those nutrients relevant to such stated purpose.

(12) Required guarantees for treats (all animal classes and species, exclusive of pets and specialty pets):

(a) Minimum percentage of crude protein

(b) Minimum percentage of crude fat

(c) Maximum percentage of crude fiber

(d) Other guarantees, as needed to support nutrient content claims in the labeling as per Paragraph (3) of Section 76-19A-9A NMSA 1978, and in accordance with terminology, order of guarantees and units of expression as specified in Subsection D of 21.18.3.9 NMAC and 21.18.3.10 NMAC

(13) Exemptions.

(a) A mineral guarantee for feed, excluding those feeds manufactured as complete feeds and for feed supplements intended to be mixed with grain to produce a complete feed for swine, poultry, fish, and veal and herd milk replacers, is not required when:

(i) the feed or feed ingredient is not intended or represented or does not serve as a principal source of that mineral to the animal; or

(ii) the feed or feed ingredient is intended for non-food producing animals and contains less than six and one-half percent total mineral.

(b) Guarantees for vitamins are not required when the commercial feed is neither formulated for nor represented in any manner as a vitamin supplement.

(c) Guarantees for crude protein, crude fat, and crude fiber are not required when the commercial feed is intended for purposes other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, such as drug premixes, mineral or vitamin supplements, and molasses.

(d) Guarantees for microorganisms are not required when the commercial feed is intended for a purpose other than to furnish these substances or they are of minor significance relating to the primary purpose of the product and no specific label claims are made.

(e) The indication for animal class(es) and species is not required on single ingredient products if the ingredient is not intended, represented, or defined for a specific animal class(es) or species.

E. Feed ingredients, collective terms for the grouping of feed ingredients, or appropriate statements as provided under the provisions of Subsection 4 of Section 76-19A-9A NMSA 1978.

(1) The name of each ingredient as defined in the official publication of the association of American feed control officials, common or usual name, or one approved by the department.

(2) Collective terms for the grouping of feed ingredients as defined in the official definitions of feed ingredients published in the official publication of the association of American feed control officials in lieu of the individual ingredients; provided that:

(a) when a collective term for a group of ingredients is used on the label, individual ingredients within that group shall not be listed on the label;

(b) the manufacturer shall provide the feed control official, upon request, with a list of individual ingredients, within a defined group, that are or have been used at manufacturing facilities distributing in or into the state.

(3) The registrant may affix the statement, "ingredients as registered with the state" in lieu of ingredient list on the label. The list of ingredients must be on file with the department. This list shall be made available to the feed purchaser upon request.

F. Directions for use and precautionary statements or reference to their location if the detailed feeding directions and precautionary statements required by 21.18.3.13 NMAC and 21.18.3.14 NMAC appear elsewhere on the label.

G. Name, city, state, and zip code of the manufacturer or person responsible for distributing the feed.

H. Quantity statement.

(1) Net quantity shall be declared in terms of weight, liquid measure, or count based on applicable requirements under the Fair Packaging and Labeling Act (Title 15 U.S.C. 1453).

(2) Net quantity labeled in terms of weight shall be expressed both in pounds, with any remainder in terms of ounces or common or decimal fractions of the pound and in appropriate Si metric system units; or in the case of liquid measure, both in the largest whole unit (quarts, quarts and pints, or pints, as appropriate) with any remainder in terms of fluid ounces or common or decimal fractions of the pint of quart and in appropriate Si metric system units.

(3) When the declaration of quantity of contents by count does not give adequate information as to the quantity of feed in the container, it shall be combined with such statement of weight, liquid measure, or size of the individual units as will provide such information.

[21.18.3.9 NMAC - Rp, 21.18.3.9 NMAC, 10/20/2026]

21.18.3.10 EXPRESSION OF GUARANTEES:

A. The guarantees for crude protein, equivalent crude protein from non-protein nitrogen, lysine, methionine, other amino acids, crude fat, crude fiber, and acid detergent fiber shall be in terms of percentage.

B. Mineral guarantees

(1) When the calcium, salt, and sodium guarantees are given in the guaranteed analysis, such shall be stated and conform to the following:

(a) When the minimum is below two and a half percent the maximum shall not exceed the minimum by more than 0.5 percentage point.

(b) When the minimum is two and a half percent but less than five percent the maximum shall not exceed the minimum by more than one percentage point.

(c) When the minimum is above five percent or greater, the maximum shall not exceed the minimum by more than twenty percent of the minimum and in no case shall the maximum exceed the minimum by more than five percentage points.

(2) When stated, guarantees for minimum and maximum total sodium and salt: minimum potassium, magnesium, sulfur, phosphorus, and maximum fluorine shall be in terms of percentage. Other minimum mineral guarantees shall be stated in parts per million (ppm) when the concentration is less than 10,000 ppm and in percentage when the concentration is 10,000 ppm (one percent) or greater.

(3) Products labeled with a quantity statement (e.g., tablets, capsules, granules, or liquid) may state mineral guarantees in milligrams (mg) per unit (e.g., tablets, capsules, granules, or liquids) consistent with the quantity statement and directions for use.

C. Guarantees for minimum vitamin content of commercial feeds shall be listed in the order specified and are stated in mg/lb or in units consistent with those employed for the quantity statement unless otherwise specified:

(1) vitamin A, other than precursors of vitamin A, in international units per pound.

(2) vitamin D-3 in products offered for poultry feeding, in international chick units per pound.

(3) vitamin D for other uses, international units per pound.

(4) vitamin E, in international units per pound.

(5) concentrated oils and feed additive premixes containing vitamins A, D or E may, at the option of the distributor, be stated in units per gram instead of units per pound.

(6) vitamin B-12, in milligrams or micrograms per pound.

(7) all other vitamin guarantees shall express the vitamin activity in milligrams per pound in terms of the following: menadione; riboflavin; d-pantothenic acid; thiamine; niacin; vitamin B-6; folic acid; choline;

biotin; inositol; p-amino benzoic acid; ascorbic acid; and carotene.

(8) Products labeled with a quantity statement (e.g., tablets, capsules, granules, or liquid) may state vitamin guarantees in milligrams per unit (e.g., tablets, capsules, granules, or liquids) consistent with the quantity statement and directions for use.

D. Guarantees for drugs shall be stated in terms of percent by weight, except:

(1) antibiotics, present at less than 2,000 grams per ton (total) of commercial feed shall be stated in grams per ton of commercial feed;

(2) antibiotics present at 2,000 or more grams per ton (total) of commercial feed, shall be stated in grams per pound of commercial feed;

(3) the term "milligrams per pound" may be used for drugs or antibiotics in those cases where a dosage is given in "milligrams" in the feeding directions.

E. Commercial feeds containing any added non-protein nitrogen shall be labeled as follows:

(1) For ruminants

(a) Complete feeds, supplements, and concentrates containing added non-protein nitrogen and containing more than five percent protein from natural sources shall be guaranteed as follows:

(i) crude protein, minimum, _____ %

(ii) This includes not more than _____ % equivalent crude protein from non-protein nitrogen.

(b) Mixed feed concentrates and supplements containing less than five percent protein from natural sources may be guaranteed as follows:
equivalent crude protein from non-protein nitrogen, minimum, _____ %

(c) Ingredient sources of non-protein nitrogen such as urea, diammonium phosphate, ammonium polyphosphate solution, ammoniated rice hulls, or other basic non-protein nitrogen ingredients defined by the association of American feed control officials shall be guaranteed as follows:

(i) nitrogen, minimum, ____ %

(ii) equivalent crude protein from non-protein nitrogen, minimum, ____ %

(2) For non-ruminants

(a) Complete feeds, supplements, and concentrates containing crude protein from all forms of non-protein nitrogen, added as such, shall be labeled as follows:

(i) crude protein, minimum _____ %

(ii) this includes not more than _____ % equivalent crude protein which is not nutritionally available to (species of animal for which feed is intended.

(b) Premixes, concentrates, or supplements intended for non-ruminants containing more than one and one-quarter percent equivalent crude protein from all forms of non-protein nitrogen, added as such, must contain adequate directions for use and a prominent statement: "**WARNING: This feed must be used only in accordance with directions furnished on the label**.

F. Mineral phosphatic materials for feeding purposes shall be labeled with the guarantee for minimum and maximum percentage of calcium (when present), the minimum percentage of phosphorus, and the maximum percentage of fluorine.

G. Guarantees for microorganisms shall be stated in colony forming units per gram (CFU/g) when directions are for using the product in grams or in colony forming units per pound (CFU/lb) when directions are for using the product in pounds. A parenthetical statement following the guarantee shall list each species in order of predominance.

H. Guarantees for enzymes shall be stated in units of enzymatic activity per unit weight or volume, consistent with label directions. The source organism for each type of enzymatic activity shall be specified, such as: protease (bacillus subtilis) 5.5 mg amino acids liberated/min./milligram. If two or more sources have the same type of activity, they shall be listed in order of predominance based on the amount of enzymatic activity provided.

I. Guarantees for dietary starch, sugars, and fructans for Commercial Feeds, other than customer-formula feed, Pet Food and Specialty Pet Food Products:

(1) A commercial feed which bears on its labeling a claim in any manner for levels of "dietary starch," "sugars," "fructans," or words of similar designation, shall include on the label:

(a) guarantees for maximum percentage of dietary starch and maximum percentage sugars, in the Guaranteed Analysis section immediately following the last fiber guarantee;

(b) a maximum percentage guarantee for fructans immediately following sugars, if the feed contains forage products.

(2) When such guarantees for dietary starch, sugars or fructans for commercial feeds appear

on the label, feeding directions shall indicate the proper use of the feed product and a recommendation to consult with a veterinarian or nutritionist for a recommended diet.
[21.18.3.10 NMAC - Rp, 21.18.3.10 NMAC, 10/20/2026]

21.18.3.11 SUBSTANTIATION OF NUTRITIONAL SUITABILITY:

A. A commercial feed, other than a customer-formula feed, shall be nutritionally suitable for its intended purpose as represented by its labeling.

B. If the department has reasonable cause to believe a commercial feed is not nutritionally suitable, the department may request the feed manufacturer to either submit an "Affidavit of Suitability" or an alternative procedure acceptable to the department, certifying the nutritional adequacy of the feed. The affidavit of suitability or alternate procedure of suitability shall serve as substantiation of the suitability of the feed.

C. If an affidavit of suitability or alternative procedure acceptable to the department is not submitted by the feed manufacturer within 30 days of written notification, the department may deem the feed adulterated in accordance with Section 76-19A-8M NMSA 1978 and order the feed removed from the marketplace.

D. The affidavit of suitability shall contain the following information:

(1) the feed company's name;

(2) the feed's product name;

(3) the name and title of the affiant submitting the document;

(4) a statement that the affiant has knowledge of the nutritional content of the feed and based on valid scientific evidence the feed is nutritionally adequate for its intended purpose;

(5) the date of submission; and,

(6) the signature of the affiant notarized by a certified notary public.

[21.18.3.11 NMAC - Rp, 21.18.3.11 NMAC, 10/20/2026]

21.18.3.12 INGREDIENTS:

A. The name of each ingredient or collective term for the grouping of ingredients, when required to be listed, shall be the name as defined in the official definitions of feed ingredients as published in the official publication of the association of American feed control officials, the common or usual name, or one approved by the department.

B. The name of each ingredient must be shown in letters or type of the same size.

C. No reference to quality or grade of an ingredient shall appear in the ingredient statement of a feed.

D. The term "dehydrated" may precede the name of any product that has been artificially dried.

E. A single ingredient product defined by the association of American feed control officials is not required to have an ingredient statement.

F. Tentative definitions for ingredients shall not be used until adopted as official, unless no official definition exists or the ingredient has a common accepted name that requires no definition, (i.e. sugar) unless approved by the department.

G. When the word "iodized" is used in connection with a feed ingredient, the feed ingredient shall contain not less than 0.007% iodine, uniformly distributed.
[21.18.3.12 NMAC - Rp, 21.18.3.12 NMAC, 10/20/2026]

21.18.3.13 DIRECTIONS FOR USE AND PRECAUTIONARY STATEMENTS:

A. Directions for use and precautionary statements on the labeling of all commercial feeds and customer-formula feeds containing additives (including drugs, special purpose additives, or non-nutritive additives) shall:

(1) be adequate to enable safe and effective use for the intended purposes by users with no special knowledge of the purpose and use of such articles; and

(2) include, but not be limited to, all information described by all applicable regulations under the Federal Food, Drug and Cosmetic Act.

B. Adequate directions for use and precautionary statements are required for feeds containing non-protein nitrogen as specified in 21.18.3.14 NMAC.

C. Adequate directions for use and precautionary statements necessary for safe and effective use are required on commercial feeds distributed to supply particular dietary needs or for supplementing or fortifying the usual diet or ration with any vitamin, mineral, or other dietary nutrient or compound.

D. Raw milk distributed as commercial feed shall bear the following statement: “WARNING: NOT FOR HUMAN CONSUMPTION - THIS PRODUCT HAS NOT BEEN PASTEURIZED AND MAY CONTAIN

HARMFUL BACTERIA." This statement shall be displayed in a conspicuous manner and shall not be smaller than the height of the minimum font required by the Federal Fair Packaging and Labeling Act for the quantity statement as shown in the following table:

Panel Size	Minimum Warning Statement Type Size
≤5 in.^{2}	1/16 in.
>5–≤25 in.^{2}	1/8 in.
>25–≤100 in.^{2}	3/16 in.
>100–≤400 in.^{2}	1/4 in.
>400 in.^{2}	1/2 in.

E. Distribution of raw milk for use as commercial feed for any species shall be decharacterized with food coloring approved by the Federal Food, Drug, and Cosmetic Act, according to 21 CFR §§ 73.1 et seq. and 21 CFR §§ 74.101 et seq. or in the case of raw milk labeled as organic, approved by the US Department of Agriculture;

(1) Not affect nutritive value;

(2) Matches the color on the Color Requirement card. Any person decharacterizing milk and milk products may obtain a Color Requirement card from the New Mexico department of agriculture.

F. Milk or milk products intended for commercial feed shall not be displayed, sold, or stored at premises where food is sold or prepared for human consumption, unless it meets Grade A standards or is decharacterized and properly labeled as required by 21.18.3.8 NMAC.

[21.18.3.13 NMAC - Rp, 21.18.3.13 NMAC, 10/20/2026]

21.18.3.14 NON-PROTEIN NITROGEN:

A. Urea and other non-protein nitrogen products defined in the official publication of the association of American feed control officials are acceptable ingredients only in commercial feeds for ruminant animals as a source of equivalent crude protein. If the commercial feed contains more than 8.75% of equivalent crude protein from all forms of non-protein nitrogen, added as such, or the equivalent crude protein from all forms of non-protein nitrogen, added as such, exceeds one third of the total crude protein, the label shall bear adequate directions for the safe use of feeds and a precautionary statement: "CAUTION: USE AS DIRECTED." The directions for use and the caution statement shall be in type of such size so placed on the label that they will be read and understood by ordinary persons under customary conditions of purchase and use.

B. Non-protein nitrogen ingredients defined in the official publication of the association of American feed control officials, when so indicated, are acceptable ingredients in commercial feeds distributed to non-ruminant animals as a source of nutrients other than equivalent crude protein. The maximum equivalent crude protein from non-protein nitrogen sources when used in non-ruminant rations shall not exceed one and one-quarter percent of the total daily ration.

C. On labels such as those for medicated feeds, which bear adequate feeding directions and warning statements, the presence of added non-protein nitrogen shall not require a duplication of the feeding directions or the precautionary statements as long as those statements include sufficient information to ensure the safe and effective use of this product due to the presence of non-protein nitrogen.

D. Feeding or use directions for those feeds in which more than fifty percent of the protein content is derived from non-protein nitrogen sources should include recommendations as to providing adequate supplies of drinking water, sources of energy, forages being fed, minerals, adaptation ("warm-up") periods and stress conditions when necessary.

[21.18.3.14 NMAC - Rp, 21.18.3.14 NMAC, 10/20/2026]

21.18.3.15 DRUG AND FEED ADDITIVES:

A. Prior to approval of a registration application or approval of a label for commercial feed which contain additives (including drugs, other special purpose additives, or non-nutritive additives) the distributor may be required to submit evidence to prove the safety and efficacy of the commercial feed when used according to the directions furnished on the label.

B. Satisfactory evidence of safety and efficacy of a commercial feed may be:

(1) when the commercial feed contains such additives, the use of which conforms to the requirements of the applicable regulation in the "Code of Federal Regulations, Title 21", or which are "prior

sanctioned" or "informal review sanctioned" or "generally recognized as safe" for such use; or

(2) when the commercial feed is itself a drug as defined in Section 76-19A-2I, NMSA 1978 and is generally recognized as safe and effective for the labeled use or is marketed subject to an application approved by the food and drug administration under Title 21 U.S.C. 360 b; or

(3) when one of the purposes for feeding a commercial feed is to impart immunity (that is to act through some immunological process) the constituents imparting immunity have been approved for the purpose through the Federal Virus, Serum and Toxins Act of 1913, as amended; or

(4) when the commercial feed is a direct fed microbial product and:

(a) the product meets the particular fermentation product definition; and

(b) the microbial content statement, as expressed in the labeling, is limited to the following: "contains a source of live (viable) naturally occurring microorganisms;" this statement shall appear on the label; and

(c) the source is stated with a corresponding guarantee expressed in accordance with Subsection G of 21.18.3.10 NMAC;

(5) when the commercial feed is an enzyme product and:

(a) the product meets the particular enzyme definition defined by the association of American feed control officials; and

(b) the enzyme is stated with a corresponding guarantee expressed in accordance with Subsection H of 21.18.3.10 NMAC.

[21.18.3.15 NMAC - Rp, 21.18.3.15 NMAC, 10/20/2026]

21.18.3.16 ADULTERANTS:

A. For the purpose of Section 76-19A-8A NMSA 1978, a commercial feed shall be deemed adulterated if:

(1) it bears or contains any added poisonous, deleterious, or non-nutritive substance that is unsafe within the meaning of Section 406 of the federal Food, Drug and Cosmetic Act, other than one that is a pesticide chemical in or on a raw agricultural commodity or a food additive;

(2) it is or it bears or contains any food additive that is unsafe pursuant to Section 409 of the federal Food, Drug and Cosmetic Act;

(3) it is a raw agricultural commodity and it bears or contains a pesticide chemical that is unsafe within the meaning of Section 408 (a) of the federal Food, Drug and Cosmetic Act; provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under Section 408 of that act and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling the residue of the pesticide chemical remaining in or on such processed commercial feed shall not be deemed unsafe if the residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of the residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of such processed feed will result or is likely to result in a pesticide residue in the edible product of the animal that is unsafe within the meaning of Section 408 (a) of the federal Food, Drug and Cosmetic Act;

(4) it is or it bears or contains any color additive that is unsafe within the meaning of Section 721 of the federal Food, Drug and Cosmetic Act;

(5) it is or it bears or contains any new animal drug that is unsafe within the meaning of Section 512 of the federal Food, Drug and Cosmetic Act;

(6) it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for feed; or

(7) it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health; or

(8) it is, in whole or in part, the product of a diseased animal or of an animal that has died otherwise than by slaughter that is unsafe within the meaning of Section 402 (a)(1) or (2) of the federal Food, Drug and Cosmetic Act;

(9) its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or

(10) it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with the regulation or exemption in effect pursuant to Section 409 of the federal Food, Drug and Cosmetic Act;

B. For the purpose of Section 76-19A-8A NMSA 1978, the terms "poisonous or deleterious substances" include, but are not limited to, the following:

(1) Fluorine and any mineral or mineral mixture which is to be used directly for the feeding of domestic animals and in which the fluorine exceeds 0.20% for breeding and dairy cattle; 0.30% for slaughter cattle; 0.30% for sheep; 0.35% for lambs; 0.45% for swine; and 0.60% for poultry.

(2) Fluorine bearing ingredients when used in such amounts that they raise the fluorine content of the total ration (exclusive of roughage) above the following amounts: 0.004% for breeding and dairy cattle; 0.009% for slaughter cattle; 0.006% for sheep; 0.01% for lambs; 0.015% for swine, and 0.03% for poultry.

(3) Fluorine bearing ingredients incorporated in any feed that is fed directly to cattle, sheep or goats consuming roughage with or without limited amounts of grain that results in a daily fluorine intake in excess of 50 milligrams of fluorine per 100 pounds of body weight.

(4) Soybean meal, flakes, or pellets or other vegetable meals, flakes, or pellets which have been extracted with trichloroethylene or other chlorinated solvents.

(5) Sulfur dioxide, sulfurous acid, and salts of sulfurous acid when used in or on feeds or feed ingredients which are considered or reported to be a significant source of vitamin B1 (Thiamine).

(6) Raw leather residue from tanning or leather manufacturing.

C. All screenings or by-products of grains and seeds containing weed seeds, when used in commercial feed or sold as such to the ultimate consumer, shall be ground fine enough or otherwise treated to destroy the viability of such weed seeds so that the finished product complies with 21.18.4.8 NMAC concerning prohibited weed seeds per pound and 21.18.4.9 NMAC concerning viable restricted weed seeds per pound.
[21.18.3.16 NMAC - Rp, 21.18.3.16 NMAC, 10/20/2026]

21.18.3.17 GOOD MANUFACTURING PRACTICES: For the purposes of enforcement of Section 76-19A-8N NMSA 1978 the board adopts the following as current good manufacturing practices:

A. The regulations prescribing good manufacturing practices for type B and type C medicated feeds as published in the "Code of Federal Regulations, Title 21", Part 225, Sections 225.1 through 225.202.

B. The regulations prescribing good manufacturing practices for type A Medicated Articles as published in the "Code of Federal Regulations, Title 21," Part 226, Sections 226.1 through 226.115.
[21.18.3.17 NMAC - Rp, 21.18.3.17 NMAC, 10/20/2026]

21.18.3.18 CERTAIN MAMMALIAN PROTEINS PROHIBITED IN RUMINANT FEED:

A. Pursuant to Section 76-19A-8A or 76-19A-8C, NMSA 1978, the board adopts the requirements of "Code of Federal Regulations, Title 21", 589.2000.

B. Pursuant to Section 76-19A-8A or 76-19A-8C, NMSA 1978, the board adopts the requirements of "Code of Federal Regulations, Title 21", 589.2001.
[21.18.3.18 NMAC - Rp, 21.18.3.18 NMAC, 10/20/2026]

21.18.3.19 PET FOOD AND SPECIALTY PET FOOD LABEL FORMAT AND LABELING:

A. Pet food and specialty pet food shall be labeled with the following information:

(1) product name and brand name, if any, on the principal display panel as stipulated in 21.18.3.20 NMAC;

(2) a statement specifying the purpose of the products as stipulated in Subsection A of 21.18.3.21 NMAC;

(3) quantity statement, as defined in Subsection (1) of Section 76-19A-9A NMSA 1978 and Subsection H of 21.18.3.9 NMAC, by weight (pounds and ounces and metric), liquid measure (quarts, pints, and fluid ounces and metric), or by count on the principal display panel;

(4) pet Nutrition Facts or Specialty Pet Nutrition Facts as specified in 21.18.3.22 NMAC;

(5) ingredient statement as specified in Subsection A of 21.18.3.23 NMAC;

(6) feeding directions as required in 21.18.3.25 NMAC;

(7) name and address of the manufacturer or distributor as specified in 21.18.3.28 NMAC; and

(8) handling and Storage Instructions may be displayed as required in 21.18.3.29 NMAC.

B. When a pet food or specialty pet food enclosed in an outer container or wrapper is intended for retail sale, all required label information shall appear on the outer container or wrapper.

C. A vignette, graphic, or pictorial representation on a pet food or specialty pet food label shall not misrepresent the contents of the package.

D. The use of the word "proven" in connection with a label claim for a pet food or specialty pet food is not permitted unless the claim is substantiated by scientific or other empirical evidence.

E. No statement shall appear upon the label or labeling of a pet food or specialty pet food which makes false or misleading comparisons between that product and any other product.

F. A personal or commercial endorsement is permitted on a pet food or specialty pet food label provided the endorsement is not false or misleading.

G. A statement on a pet food or specialty pet food label stating "improved," "new," or similar designation shall be substantiated and limited to 6 months production.

H. A statement on a pet food or specialty pet food label stating preference or comparative attribute claims shall be substantiated and limited to 1 year production, after which the claim shall be removed or re-substantiated.

I. Raw milk distributed as pet food or specialty pet food shall bear the following statement "WARNING: NOT FOR HUMAN CONSUMPTION - THIS PRODUCT HAS NOT BEEN PASTEURIZED AND MAY CONTAIN HARMFUL BACTERIA." This statement shall be displayed in a conspicuous manner and shall not be smaller than the height of the minimum font required by the Federal Fair Packaging and Labeling Act for the net quantity statement as shown in the following table:

Panel Size	**Minimum Warning Statement Type Size**
≤5 in.^{2}	1/16 in.
>5–≤25 in.^{2}	1/8 in.
>25–≤100 in.^{2}	3/16 in.
>100–≤400 in.^{2}	1/4 in.
>400 in.^{2}	1/2 in.

J. When pet food or specialty pet food consists of raw milk, the words, "Raw [blank] Milk" shall appear conspicuously on the principal display panel (blank is to be completed by using the species of animal from which the raw milk is collected).

[21.18.3.19 NMAC - Rp, 21.18.3.19 NMAC, 10/20/2026]

21.18.3.20 PET FOOD AND SPECIALTY PET FOOD BRAND AND PRODUCT NAMES:

A. The names of the ingredient(s) used in the brand or product name or elsewhere on the product label shall appear in order of predominance by weight in the product. Names of flavors due to their varying intensity can be in any order.

B. The words "100%" or "All" or words of similar designation shall not be used in the brand or product name of a pet food or specialty pet food if the product contains more than one ingredient, not including water sufficient for processing, decharacterizing agents, or trace amounts of preservatives and condiments.

C. An ingredient or a combination of ingredients may form a part of the product name of a pet food or specialty pet food:

(1) When the ingredient(s) constitutes at least ninety-five percent of the total weight of the product. Water sufficient for processing may be excluded when calculating the percentage; however, the ingredient(s) shall constitute at least seventy percent of the total product weight.

(2) When any ingredient(s) constitutes at least twenty-five percent of the weight of the product, provided that:

(a) water sufficient for processing may be excluded when calculating the percentage; however, the ingredients(s) shall constitute at least ten percent of the total product weight; and

(b) a descriptor is used with the ingredient name(s); this descriptor shall imply other ingredients are included in the product formula; examples of descriptors include "dinner," "platter," "entrée," "formula," and "recipe"; and

(c) the descriptor shall be in the same size, style, and color print as the ingredient name(s).

(3) When a combination of ingredients, which are included in the product name in accordance with Subsection B of 21.18.3.20 NMAC, meets all of the following:

(a) Each ingredient constitutes at least three percent of the product weight, excluding water sufficient for processing; and,

(b) All such ingredient names appear on the label in the same size, style, and color print.

D. When the name of any ingredient appears in the product name of a pet food, specialty pet food, or elsewhere on the product label and includes a descriptor such as "with" or similar designation, the named ingredient(s) must each constitute at least three percent of the product weight exclusive of water for processing. If the names of more than one ingredient are shown, they shall appear in their respective order of predominance by weight in the product. The three percent minimum level shall not apply to claims for nutrients such as, but not limited to, vitamins, minerals, and fatty acids as well as condiments. The word "with," or similar designation and named ingredients shall be in the same size, style, color, and case print and be of no greater size than:

Panel Size	**Maximum "with claim" Type Size**
< 5 sq. in.	1/8"
5-25 sq. in.	1/4"
25-100 sq. in	3/8"
100-400 sq. in	1/2"
400 sq. in +	1"

E. A flavor designation may be included as part of the product name or elsewhere on the label of a pet food or specialty pet food when the flavor designation meets all of the following:

(1) the flavor designation:

(a) conforms to the name of the ingredient as listed in the ingredient statement; or

(b) is identified by the source of the flavor in the ingredient statement; and

(2) the word "flavor" is printed in the same size type and with an equal degree of conspicuousness as the name of the flavor designation; and

(3) substantiation of the flavor designation, the flavor claim, or the ingredient source is provided upon request.

F. Contractions or coined names referring to ingredients shall not be used in the brand name of a pet food or specialty pet food unless it is in compliance with Subsections C, D or E of 21.18.3.20 NMAC.

G. Unless a pet food and specialty pet food is identified on the principal display panel as a stew, gravy, sauce, broth, aspic, juice, milk replacer, or other such name, the maximum moisture declared on a pet food or specialty pet food label shall not exceed seventy-eight percent or the natural moisture content of the ingredients, whichever is higher.

[21.18.3.20 NMAC - Rp, 21.18.3.20 NMAC, 10/20/2026]

21.18.3.21 PURPOSE STATEMENT AND NUTRITIONAL ADEQUACY CLAIMS:

A. A statement identifying the purpose of a pet food or specialty pet food is required on the principal display panel of the label in accordance with the following:

(1) The purpose of a pet food or specialty pet food shall be stated as:

(a) "Complete [Species] Food" – for food products intended to be the complete diet for all life stages and sizes of a pet or specialty pet in accordance with the unqualified claims in Subsection B of 21.18.3.21 NMAC;

(b) For food products intended to be the complete diet for a limited life stage or size of a pet or specialty pet in accordance with the qualified claims in Subsection C of 21.18.3.21 NMAC, one of the two following statements shall be used:

(i) Complete food for [blank] where the blank shall be filled with One or more of the following: 1) "adult [species];" 2) "puppies," "kittens," or "juvenile [species other than dog or cat];" 3) "puppies (<70 lb. As an adult);" 4) "dogs (except puppies >70 lb. As an adult)"; or

(ii) Complete [blank] food where the blank shall be filled with One or more of the following: 1)"adult [species];" 2) "puppy," "kitten," or "juvenile [species other than dog or cat];" 3) "puppy (<70 lb. As an adult);" or 4) "dog (except puppies >70 lb. As an adult)";

(c) Veterinary diet for [species] – for food products intended to be used under veterinary supervision only in accordance with regulation pf4(d);

(d) "[species] treat" – for food products for pets or specialty pets, provided occasionally for enjoyment, training, entertainment, or other purposes, and not generally intended or represented to be a complete food or nutritional supplement;

(e) "[species] food supplement" – for food products for pets or specialty pets that are intended to supply specific nutrient(s) or other food components but are not a complete diet;

(f) "[species] food mixer" – for food products for pets or specialty pets that are intended to top, accompany, or contribute to a complete diet but are not generally intended or represented to be a complete diet; or

(g) "daily [specialty pet species] food" – for food products that are intended to be the daily diet for specialty pets where no recognized nutritional authority exists. A limited life stage may be indicated, i.e., "daily [specialty pet species] food for [juveniles or adults]."

(2) This purpose statement shall:

(a) appear within the bottom thirty percent of the area of the label principal display panel in lines generally parallel to the base on which the package rests as it is designed to be displayed and shall be repeated on the alternate principal display panel, if present. However, on packages having a principal display panel of 5 square inches or less, the requirement for placement within the bottom thirty percent of the area of the label panel shall not apply;

(b) be at least as large as the statement of net quantity, consistent with 16 CFR 500.21;

(c) appear in the same color and style as the statement of net quantity and on the same background color as the statement of net quantity; and

(d) be separated by at least a space equal to the height of the letter "n" used in the statement of net quantity from other printed label
Information appearing above or below it and by at least a space equal to twice the width of the letter "n" of the style of type used in the quantity of contents statement from other printed label information appearing to the left or right of it.

B. The label of a pet food or specialty pet food which is intended for all life stages and sizes of the pet or specialty pet may make unqualified claims, directly or indirectly, such as "complete and balanced," "perfect," "scientific," or "100% nutritious" if at least one of the following apply:

(1) the product meets the nutrient requirements for all life stages and sizes
Established by an Association of American feed control officials-recognized nutrient profile; or

(2) the product meets the criteria for all life stages as substantiated by completion of the appropriate Association of American feed control officials-recognized animal feeding protocol(s);

(a) unqualified claims of nutritional adequacy that include large size dogs (greater than 70 lb. As an adult) can be substantiated by completing the appropriate protocols using large size dogs; or

(b) can be substantiated by completing the appropriate protocols using dogs less than 70 lb. Adult weight while containing no more calcium and phosphorus than the maximum limits for large size dogs listed in the Association of American feed control officials dog food nutrient profiles; or

(3) the product is a member of a product family which is nutritionally similar to a lead product which contains a combination of ingredients that has been fed to a normal animal as the sole source of nourishment in accordance with the testing procedures established by Association of American feed control officials for all life stages, provided that:

(a) the nutritional similarity of the family product can be substantiated according to the procedures for establishing pet food product families developed by Association of American feed control officials; and

(b) the family product meets the criteria for all life stages; and

(c) under circumstances of reasonable doubt, the [state control official] may require the manufacturer to perform additional testing of the family product in order to substantiate the claim of nutritional adequacy.

C. The label of a pet food or specialty pet food which is intended for a limited purpose (such as size of dog) or a specific life stage, but not for all life stages and sizes, may make qualified claims, directly or indirectly, such as "complete and balanced," "perfect," "scientific," or "100% nutritious" when the product and claim meet both of the following:

(1) The claim is qualified with a statement of the limited purpose or specific life stage for which the product is intended or suitable, for example, "complete and balanced for puppies (or kittens)." The claim

and the required qualification shall be juxtaposed on the same label panel and in the same size, style, and color print; and

(2) The product meets at least one of the following:

(a) the nutrient requirements for the limited purpose or specific life stage established by an Association of American feed control officials-recognized nutrient profile; or

(b) the criteria for a limited purpose or a specific life stage as substantiated by completion of the appropriate Association of American feed control officials-recognized animal feeding protocol(s);

(i) qualified claims of nutritional adequacy that include large size dogs can be substantiated by completing the appropriate protocols using large size dogs; or

(ii) can be substantiated by completing the appropriate protocols using dogs less than 70 lb. Adult weight while containing no more calcium and phosphorus than the maximum limits for large size dogs listed in the Association of American feed control officials dog food nutrient profiles; or

(c) the requirements of a product family which is nutritionally similar to a lead product which contains a combination of ingredients which, when fed for such limited purpose, will satisfy the nutrient requirements for such limited purpose and has had its capabilities in this regard demonstrated by adequate testing, and provided that:

(i) the nutritional similarity of the family product can be substantiated according to the procedures for establishing pet food product families developed by Association of American feed control officials; and

(ii) the family product meets the criteria for such limited purpose; and

(iii) under circumstances of reasonable doubt, the department may require the manufacturer to perform additional testing for the family product to substantiate the claim of nutritional adequacy.

D. A product intended for use by, or under the supervision or direction of, a veterinarian shall clearly indicate the nutritional adequacy of the product in accordance with regulation Subparagraph (f) of Paragraph (3) of Subsection A of 21.18.3.22 NMAC or Subparagraph (f) of Paragraph (2) of Subsection B of 21.18.3.22 NMAC as would be required for any other pet food or specialty pet food.

E. A signed affidavit attesting that the product meets the requirements of Subsection B of 21.18.3.21 NMAC or Subsection C of 21.18.3.21 NMAC shall be submitted to the upon request.

F. If the nutrient content of a product does not meet those nutrient requirements established by an Association of American feed control officials-recognized nutrient profile, or if no requirement has been established by an Association of American feed control officials-recognized nutritional authority for the life stage(s) of the intended species, the claimed nutritional adequacy of the product shall be scientifically substantiated.

G. The following Association of American feed control officials-recognized nutritional authority, nutrient profile, and/or animal feeding protocol shall be acceptable as the basis for a claim of nutritional adequacy:

(1) As an Association of American feed control officials-recognized nutrient profile or nutritional authority:

(a) For dogs, the Association of American feed control officials dog food nutrient profiles;

(b) For cats, the Association of American feed control officials cat food nutrient profiles;

(c) For specialty pets, the nutrient recommendations approved by the committee on animal nutrition of the national research council of the national academy of sciences, provided that, this nutrient recommendation is recognized only for the specific specialty pet for which the profile is intended.

(2) As an Association of American feed control officials-recognized animal feeding protocol(s), the Association of American feed control officials dog and cat food feeding protocols.

H. When the label of a pet food or specialty pet food includes a comparison of the nutrient content of the food with levels established by an Association of American feed control officials-recognized nutrient profile such as a table of comparison, a percentage, or any other designation referring to an individual nutrient or all of the nutrient levels, the following apply;

(1) The product shall meet the Association of American feed control officials-recognized nutrient profile; and

(2) The statement of comparison shall be preceded by a statement that the product meets the Association of American feed control officials-recognized profile; however, the statement that the product meets the Association of American feed control officials-recognized nutrient profile is not required provided that the nutritional adequacy statement as per regulation Paragraph (1) of Subsection B of 21.18.3.21 NMAC or

Subparagraph (a) of Paragraph (2) of Subsection C of 21.18.3.21 NMAC appears elsewhere on the product label; and

(3) The statement of comparison of the nutrient content shall constitute a guarantee and shall be in the nutrient guarantees within the pet or specialty pet nutrition facts; and

(4) The statement of comparison shall appear on the label separate and apart from the nutrient guarantees within the pet or specialty pet nutrition facts.

[21.18.3.21 NMAC - Rp, 21.18.3.21 NMAC, 10/20/2026]

21.18.3.22 PET AND SPECIALTY PET NUTRITION FACTS:

A. Pet Nutrition Facts shall be displayed in a prominent place on the label of all pet foods (including treats, food supplements, veterinary diets, and food mixers), but not necessarily on the principal display panel. The information shall be set off in a box by use of hairlines and shall be all black or one-color type, printed on a white or other neutral contrasting background so as to be clearly visible under the heading "Pet Nutrition Facts" that is centered in the top row of the box and twice the size of all other text in the box. A hairline rule that is centered between the lines of text shall separate "Pet Nutrition Facts" from the next line of text. The box contains the following required elements with all text the same size and style in the following order:

(1) **t**he stated whole familiar household unit (e.g., can, measuring cup, treat, or piece), consistent with the feeding directions, and its weight in grams shall be right justified. This is set off by a bold line centered between this and the next line of text.

(2) a statement of calorie content, determined as specified in 21.18.3.26 NMAC shall include the following:

(a) the calorie content of the product shall be stated after the left justified heading:

(i) "Calories per [familiar household unit]†: [#]" when the calorie content is determined in accordance with Paragraph (1) of Subsection A of 21.18.3.26 NMAC or

(ii) "Calories per [familiar household unit] (fed): [#]" when the calorie content is determined in accordance with 21.18.3.26(A)2 NMAC.

(b) Below the calorie content statement, the number of calories contributed by Protein, Fat, and Carbohydrate shall be declared, in that order, after "From:". The "From:" line shall be indented to reflect that it is a component of the total calories on the line above. If the total calorie content of the product is determined by feeding trial in accordance with Paragraph (2) of Subsection A of 21.18.3.26 NMAC then "†" shall be declared immediately after the number of calories from carbohydrates. The determination of calories from protein, fat, and carbohydrate are as described in Subsection C of 21.18.3.26 NMAC. This is set off by a bold line centered between this and the next line of text.

(3) The nutrient guarantees shall appear under the headers "Nutrients" that is left justified to the edge of the box, "Guaranteed" that is right justified to a vertical hairline that runs from this line of text to the last guaranteed nutrient value, and "per [familiar household unit]" that is right justified to the edge of the box. The amount "per [familiar household unit]" for each nutrient is determined by multiplying the guaranteed amount (concentration) by the number of grams in the familiar household unit and shall include the resultant unit of such amount (e.g., grams, milligrams, or international units). The guarantees shall be listed in the following order with a hairline centered between each line of text:

(a) A pet food label shall list the following required guaranteed amounts, stated as a maximum or minimum, as appropriate:

(i) "Protein" is minimum percentage of crude protein;

(ii) "Fat" is minimum percentage of crude fat;

(iii) "Total Carbohydrate†" is maximum percentage equal to [100 – (Crude Protein + Crude Fat + Moisture + Ash)];

(iv) "Dietary Fiber" is maximum percentage of total dietary fiber. The dietary fiber guarantee shall be indented to reflect that it is a component of the total carbohydrate guarantee on the line above;

(v) "Moisture" is maximum percentage of moisture; and

(vi) Maximum percentage of crude fat ("Fat") shall be listed between the minimum percentage of crude fat and the maximum percentage "Total Carbohydrate" if required by Regulation PF9;

(vii) additional required or voluntary guarantees shall follow moisture or ash, if listed.

(b) When "Ash" is listed, it shall be guaranteed as a maximum percentage and shall immediately follow moisture.

(c) When listed on the label of a dog or cat food product, guarantees for "Dietary Starch" and "Sugars" shall be stated as maximum guaranteed amounts. Neither guaranteed amount shall be listed without the other. The guaranteed amount for dietary starch shall follow dietary fiber with the same indentation. The guaranteed amount for sugars shall follow dietary starch with the same indentation.

(d) The "†calculated value" shall appear immediately after the last guarantee below a bold line.

(e) Other additional required or voluntary guarantees shall appear in accordance with the following:

(i) guarantees for nutrients are in the same order and units of the nutrients in the Association of American feed control officials Dog (or Cat) Food Nutrient Profiles following ash, if also listed, or moisture, if ash is not listed.

(ii) guarantees for substances not listed in the Association of American feed control officials Dog (or Cat) Food Nutrient Profiles, or not otherwise provided for in these Regulations, shall immediately follow the listing of the recognized nutrients and be accompanied by an asterisk. For any such guarantees, a hairline shall be centered between the last and the next line of text; the disclaimer "*not recognized as an essential nutrient by the association of American feed control officials Dog (or Cat) Food Nutrient Profiles" shall appear immediately after "†calculated value".

(f) The statement of nutritional adequacy shall appear immediately below the bold line separating it from the disclaimers which follow the guarantees:

(i) a statement that the dog or cat food meets the requirements of one or more of the recognized categories of nutritional adequacy: gestation/lactation, growth, maintenance, and all life stages. It shall be stated verbatim as one of the following: 1) (Name of product) is formulated to meet the nutritional levels established by the association of American feed control officials dog (or cat) food nutrient profiles for [blank]. (Blank is to be completed by using the stage or stages of the pet's life, such as gestation/ lactation, growth, maintenance, or the words "All Life Stages".) For a dog food, when the blank includes the words "Growth" or "All Life Stages," one of the following phrases must also be added verbatim to the end of the claim: "including growth of large size dogs (70 lb. or more as an adult)" if the product has been formulated to meet the levels of nutrients specifically referenced in the Dog Food Nutrient Profiles as being applicable to large size growing dogs. Or "except for growth of large size dogs (70 lb. or more as an adult)" if the product has not been formulated to meet the levels of nutrients specifically referenced in the Dog Food Nutrient Profiles as being applicable to large size growing dogs; or 2)"Animal feeding tests using association of American feed control officials procedures substantiate that (Name of Product) provides complete and balanced nutrition for [blank]." (Blank is to be completed by using the stage or stages of the pet's life tested, such as, gestation/lactation, growth, maintenance, or the words "All Life Stages"); or 3) "(Name of Product) provides complete and balanced nutrition for [blank] (Blank is to be completed by using the stage or stages of the pet's life, such as gestation, lactation, growth, maintenance, or the words "All Life Stages") and is comparable in nutritional adequacy to a product which has been substantiated using association of American feed control officials feeding tests."

(ii) A nutritional or dietary statement for purposes other than those listed in Subsections B or C of 21.18.3.21 NMAC if the statement is scientifically substantiated; or

(iii) The statement: "This product is intended for intermittent or supplemental feeding only," if a product does not meet the requirements of Subsections of B or C of 21.18.3.21 NMAC or any other special nutritional or dietary need and so is suitable only for limited or intermittent or supplementary feeding.

B. Specialty Pet Nutrition Facts shall be displayed in a prominent place on the label of all specialty pet foods (including treats, food supplements, veterinary diets, and food mixers), but not necessarily on the principal display panel. The information shall be set off in a box by use of hairlines and shall be all black or one-color type, printed on a white or other neutral contrasting background so as to be clearly visible under the heading "Specialty Pet Nutrition Facts" that is centered in the top row of the box and twice the size of all other text in the box. A hairline rule that is centered between the lines of text shall separate "Specialty Pet Nutrition Facts" from the next line of text. The box contains the following required elements with all text the same size and style in the following order:

(1) The stated whole familiar household unit (e.g., can, measuring cup, treat, or piece), consistent with the feeding directions, and its weight in grams shall be right justified. This is set off by a bold line centered between this and the next line of text.

(2) The nutrient guarantees shall appear under the headers "Nutrients" that is left justified to the edge of the box, "Guaranteed" that is right justified to a vertical hairline that runs from this line of text to the last

guaranteed nutrient values, and "per [familiar household unit]" that is right justified to the edge of the box. The amount "per [familiar household unit]" for each nutrient is determined by multiplying the guaranteed amount (concentration) by the number of grams in the familiar household unit and shall include the resultant unit of such amount (e.g., grams, milligrams, or international units). The guarantees shall be listed in the following order with a hairline centered between each line of text:

(a) A specialty pet food label shall list the following required guaranteed amounts, stated as a maximum or minimum, as appropriate:

(i) "Protein" is minimum percentage of crude protein;

(ii) "Fat" is minimum percentage of crude fat;

(iii) "Total Carbohydrate†" is maximum percentage equal to [100 – (Crude Protein + Crude Fat + Moisture + Ash)];

(iv) "Dietary Fiber" is maximum percentage of total dietary fiber. The dietary fiber guarantee shall be indented to reflect that it is a component of the total carbohydrate guarantee on the line above; and

(v) "Moisture" is maximum percentage of moisture;

(vi) additional required or voluntary guarantees shall follow moisture or ash, if listed.

(b) When "Ash" is listed, it shall be guaranteed as a maximum percentage and shall immediately follow moisture.

(c) When listed on the label of a specialty pet food product, guarantees for "Dietary Starch" and "Sugars" shall be stated as maximum guaranteed amounts. Neither guaranteed amount shall be listed without the other. The guaranteed amount for dietary starch shall follow dietary fiber with the same indentation. The guaranteed amount for sugars shall follow dietary starch with the same indentation.

(d) The "†calculated value" shall appear immediately after the last guarantee below a bold line.

(e) Other additional required or voluntary guarantees shall appear in accordance with the following:

(i) these guarantees shall follow ash, if also listed, or moisture, if ash is not listed;

(ii) guarantees for nutrients are in the same order and units of the nutrients in an association of American feed control officials-recognized nutrient profile for the intended animal species; however, if no species-specific association of American feed control officials-recognized nutrient profile is available, the order and units shall follow the same order and units of nutrients in the association of American feed control officials cat food nutrient profile;

(iii) for those specialty pet species with an association of American feed control officials-recognized nutrient profile for the intended animal species, guarantees for substances not listed in that profile, or not otherwise provided for in these Regulations, shall immediately follow the listing of the recognized nutrients and be accompanied by an asterisk. For any such guarantees, a hairline shall be centered between the last and the next line of text. The disclaimer "*not recognized as an essential nutrient by the [blank]." (Blank is to be completed by listing the specific association of American feed control officials-recognized nutrient profile) shall appear immediately after the last such guaranteed amounts. No such disclaimer shall appear unless an association of American feed control officials-recognized nutrient profile is available for the specific species of specialty pet.

(f) The statement of nutritional adequacy shall appear immediately below the bold line separating it from the guarantees as one of the following:

(i) for daily foods for those specialty pet species where no recognized nutritional authority exists, the statement: "This product is intended to be a daily food."

(ii) for all other specialty pet foods: 1) A statement substantiating that the specialty pet food meets the requirements for nutritional adequacy in Subsections B or C of 21.18.3.21 NMAC by an association of American feed control officials-recognized nutritional authority. It shall be stated verbatim as the following: "(Name of product) is formulated to meet the nutritional levels established by [the association of American feed control officials-recognized authority] for [blank]." (Blank is to be completed by stating the species and the stage or stages of the specialty pet's life.); 2) A nutritional or dietary claim for purposes other than those listed in Subsections B or C of 21.18.3.21 NMAC if the claim is scientifically substantiated; or 3) the statement: "This product is intended for intermittent or supplemental feeding only," if a product is suitable only for limited or intermittent or supplementary feeding.

C. The "Pet Nutrition Facts" or "Specialty Pet Nutrition Facts" box of a pet food or a specialty pet food which is formulated as and represented to be a food supplement shall include all of the information required in Subsection A of 21.18.3.22 NMAC or Subsection B of 21.18.3.22 NMAC except that guarantees shall only be displayed on a per feeding unit (e.g., tablets, capsules, granules, or liquids) basis:

(1) for a food supplement that is intended to be a source of nutrients, guarantees shall appear for all nutrients that the product is intended to provide under the headers "Nutrients" that is left justified to the edge of the box and "per [feeding unit]" that is right justified to the edge of the box:

(a) for nutrients with an established requirement by an association of American feed control officials-recognized nutrient profile, minimum guarantees shall be declared in the same order and units (i.e., g, mg, or IU) specified in the association of American feed control officials-recognized nutrient profile for the intended species; or

(b) when no species-specific nutrient profile has been recognized by association of American feed control officials, minimum guarantees shall be declared in the same order and units (i.e., g, mg, or IU) specified in the association of American feed control officials cat food nutrient profiles; and

(c) guarantees for substances not listed in an association of American feed control officials-recognized nutrient profile for the intended animal species, or not otherwise provided for in these Regulations, shall immediately follow the listing of the recognized nutrients and be accompanied by an asterisk.

(i) For any such guarantees, a hairline shall be centered between the last and the next line of text;

(ii) the disclaimer "*not recognized as an essential nutrient by the [blank]." (Blank is to be completed by listing the specific association of American feed control officials-recognized nutrient profile) shall appear immediately after the last such guaranteed amounts. No such disclaimer shall appear unless an association of American feed control officials-recognized nutrient profile is available for the specific species of specialty pet.

(2) For a food supplement that is intended to supply microorganisms and/or enzymes, guarantees shall be declared as stipulated in Subsection G and/or H of 21.18.3.11 NMAC on a per feeding unit (e.g., tablets, capsules, granules, or liquids) basis. The enzyme activity unit meaning should follow the disclaimer within the box.

D. The sliding scale method of expressing a guaranteed amount on a pet food or specialty pet food label (for example, "Protein 15–18% Min") is prohibited.

E. Protein, fat, calculated total carbohydrate, or dietary fiber are not required when the pet food or specialty pet food is intended for purposes other than to furnish these substances or they are of minor significance relative to the primary purpose of the product, such as a mineral or vitamin supplement.

F. For small packages with a total printable area of more than 12 square inches and less than or equal to 40 square inches, all information required in Subsections A, B, or C of 21.18.3.22 NMAC shall appear, but may appear in a linear format. This information shall appear in one place without other intervening material. In the linear format, the required information shall:

(1) appear in the same order as required by Subsections A, B, or C of 21.18.3.22 NMAC but without the formatting described;

(2) text shall be all black or one-color type and all text shall be the same size and style, except that the heading "Pet Nutrition Facts" or "Specialty Pet Nutrition Facts" shall be bolded;

(3) the text shall be sufficiently large so as to be conspicuous and must not be smaller than 1/16 inch;

(4) the guaranteed amount shall appear immediately after the amount "per [familiar household unit]" for each nutrient with the guaranteed amount enclosed in parentheses and all units clearly identified;

(5) the following abbreviations may be used: Total Carbohydrate as "Carb†," Dietary Fiber as "Fiber".

G. For very small packages with a total printable area of less than or equal to 12 square inches, the information required elsewhere in 21.18.3.22 NMAC is not required to appear on the label. However, all information specified elsewhere in 21.18.3.22 NMAC for the particular product type shall be determined and shall be submitted to the department upon request. The following limited information is required to appear on the label:

(1) this information shall appear in one place without other intervening material;

(2) text shall be all black or one-color type and all text shall be the same size and style, except that the heading "Nutrition Facts" shall be bolded;

(3) the text shall be sufficiently large so as to be conspicuous and must not be

smaller than 1/16 inch;

(4) for pet foods, only total calories are required and shall be stated as:

(a) "Cal (calc): [#]" when the Calorie content is determined in accordance with Paragraph (1) of Subsection A of 21.18.3.26 NMAC; or

(b) "Cal (fed): [#]" when the Calorie content is determined in accordance with Paragraph (2) of Subsection A of 21.18.3.26 NMAC.

(5) Guaranteed amounts shall be stated in weight per entire contents (e.g., grams per pouch). The following required guaranteed amounts stated as a maximum or minimum, as appropriate:

(a) "Protein" is crude protein;

(b) "Fat" is crude fat;

(c) "Carb" is calculated from [100 – (% Crude Protein + % Crude Fat + % Moisture + % Ash)];

(d) "Fiber" is total dietary fiber;

(e) "Moisture" is moisture; and

(f) additional required or voluntary guarantees shall follow moisture or ash, if listed, and shall comply with the requirements for such guarantees in Paragraph (3) of Subsection A of 21.18.3.22 NMAC or Paragraph (2) of Subsection B of 21.18.3.22 NMAC, as appropriate, except that they shall be stated in only in weight per entire contents.

[21.18.3.22 NMAC - Rp, 21.18.3.22 NMAC, 10/20/2026]

21.18.3.23 PET FOOD AND SPECIALTY PET FOOD INGREDIENTS:

A. Each ingredient of a pet food or specialty pet food shall be listed in the ingredient statement as follows:

(1) the names of all ingredients in the ingredient statement shall be shown in letters or type of the same size, style, and color, except where the defined name of the ingredient includes genus and species (e.g., microorganisms) which may be shown in italics;

(2) the ingredients shall be listed in descending order by their predominance by weight in non-quantitative terms, except if the ingredient is a vitamin and/or mineral premix, the premix may be declared in order of predominance by the name "vitamins" or "minerals," as appropriate, followed by a parenthetical listing of all the vitamins and/or minerals in the premix, each in their order of predominance by weight as listed on the ingredient statement of the premix label;

(3) ingredients shall be listed and identified by the name established in the association of American feed control officials official Common or Usual Names and Definitions of Feed Ingredients, except any ingredient for which no association of American feed control officials ingredient name exists shall be identified by the common or usual name;

(4) any ingredient suitable for use in pet food or specialty pet food for which there is a codified standard of identity in Title 9 or 21 of the Code of Federal Regulations shall be declared in accordance with the applicable regulation, which includes the name of the standardized food followed by a parenthetical listing of its ingredients, if necessary, as provided in the regulation;

(5) the ingredients "meat," "poultry," "poultry by-products," or "meat by-products" shall be qualified to designate the animal from which the ingredients are derived unless the meat or meat by-products are derived from cattle, swine, sheep, goats, or any combination thereof or the poultry or poultry meal are derived from chickens, turkeys, ducks, geese, guineas, ratites, or squabs, or any combination thereof. For example, ingredients derived from deer shall be listed as "venison" or "venison by-products;"

(6) for ingredients consisting of fish, "fish meal," or "fish by-products," the name of the ingredient may include "fish" without further specification of the type of the fish or if it bears a name descriptive of its kind (e.g., "ocean whitefish" or by using the acceptable market name(s) or common name (but not any vernacular or slang names) of the individual fish species in the ingredient as established by the FDA Seafood List), it must correspond thereto; and

(7) for purposes of ingredient labeling of pet food or specialty pet food, the ingredient "sugar" shall refer to sucrose, which is obtained from sugar cane or sugar beets in accordance with the provisions in Title 21 of the Code of Federal Regulations. For all other labeling purposes outside the ingredient list, the term "sugar" shall be synonymous with "sugars" as defined in the Official Feed Terms.

B. Brand or trade names shall not be used in the ingredient statement.

C. Reference to quality or grade of an ingredient shall not appear in the ingredient statement.

D. If properly used as specified by the USDA National Organic Program (7 CFR

Part 205), the term “organic” does not apply to Subsection C of 21.18.3.23 NMAC.

E. A reference to the nature, form, or other attribute of an ingredient shall be allowed in the ingredient statement when that attribute imparts a distinctive characteristic to the pet food or specialty pet food.

F. Any reference to the percentage of an ingredient or combination of ingredients, by symbol or word, in the brand or product name or elsewhere on a pet food
or specialty pet food label, shall be based in relation to the total weight of all ingredients in the product.

(1) The names of the ingredient(s) shall appear in order of predominance by weight in the product, provided that names of flavors due to their varying intensity can be in any order.

(2) Where water sufficient for processing is excluded from the declared
percentage, the exclusion of water shall be indicated in words juxtaposed to, the same style and color print, and at least one-half the print size of the stated percentage (e.g., “95% beef exclusive of water” or “95 percent chicken and liver exclusive of water”).

[21.18.3.23 NMAC - Rp, 21.18.3.23 NMAC, 10/20/2026]

21.18.3.24 PET FOOD AND SPECIALTY PET FOOD DRUGS AND ADDITIVES:

A. An artificial color may be used in a pet food or specialty pet food only if it has been shown to be harmless to pets or specialty pets. The permanent or provisional listing of an artificial color in the United States Food and Drug regulations as safe for use, together with the conditions, limitations, and tolerances, if any, incorporated therein, shall be deemed to be satisfactory evidence that the color is, when used pursuant to such regulations, harmless to pets or specialty pets.

B. Evidence may be required to prove the safety and efficacy or utility of a pet food or specialty pet food which contains additives or drugs, when used according to directions furnished on the label. Satisfactory evidence of the safety and efficacy of a pet food or specialty pet food may be established:

(1) when the pet food or specialty pet food contains such additives, the use of which conforms to the requirements of the applicable regulation in the Code of Federal Regulations, Title 21, or which are “prior sanctioned” or “informal review sanctioned” or “Generally Recognized as Safe” for such use; or

(2) when the pet food or specialty pet food itself is a drug or contains a drug as defined in 76-19A-2I NMSA 1978 and is “generally recognized as safe and effective” for the labeled use or is marketed subject to an application approved by the Food and Drug Administration under Title 21, U.S.C. 360(b).

C. When a drug is included in a pet food or specialty pet food, the format required by 21.18.3.9 A(2) NMAC for labeling medicated feeds shall be used.

[21.18.3.24 NMAC - Rp, 21.18.3.24 NMAC, 10/20/2026]

21.18.3.25 PET FOOD AND SPECIALTY PET FOOD FEEDING DIRECTIONS:

A. All pet foods and specialty pet foods shall bear feeding directions consistent with the purpose statement on the principal display panel.

B. Dog or cat food, including treats and food mixers, labeled as complete and balanced for any or all life stages as provided in Subsection B of 21.18.3.21 NMAC or Subsection C of 21.18.3.21 NMAC, except those pet foods labeled in accordance with Subsection D of 21.18.3.21 NMAC, shall list feeding directions on the product label. These directions shall be expressed in common terms and shall appear prominently on the label. Feeding directions shall, at a minimum, include the amount of familiar household unit of product per weight of dog (or cat). The frequency of feeding shall also be specified.

C. Specialty pet food, including treats and food mixers, labeled as complete and balanced for any or all life stages as provided in Subsection B of 21.18.3.21 NMAC or Subsection C of 21.18.3.21NMAC or as a daily food, shall list feeding directions on the product label. These feeding directions shall be adequate to meet the feeding requirements of the intended species of specialty pet. These directions shall be expressed in common terms and shall appear prominently on the label. The frequency of feeding shall also be specified.

D. Food supplements shall list feeding directions on the product label that, at minimum, include the quantity of feeding unit (e.g., tablets, capsules, granules, or liquids) per weight of animal. The frequency of feeding shall also be specified.

E. When a pet food or specialty pet food is intended for use by or under the supervision or direction of a veterinarian, the statement: “Use only as directed by your veterinarian” may be used in lieu of feeding directions.

[21.18.3.25 NMAC - Rp, 21.18.3.25 NMAC, 10/20/2026]

21.18.3.26 DETERMINATION OF CALORIE CONTENT FOR PET FOODS:

A. The statement shall be determined in terms of metabolizable energy (ME) on an "as fed" moisture basis by one of the following methods then converted to Calories (kcal) per the familiar household unit (i.e., can, measuring cup, treat, or piece):

(1) By calculation (indicated with a "†"in the Pet Nutrition Facts) using the following "Modified Atwater" formula: ME (kcal/kg) = 10[(3.5 × CP) + (8.5 × CF) + (3.5 × NFE)], where ME = metabolizable energy, CP = % crude protein "as fed," CF = % crude fat "as fed," NFE = % nitrogen-free extract (carbohydrate) "as fed," and the percentages of CP and CF are the average values of these components in the product as determined by sound scientific methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product. The NFE is calculated as the difference between 100 and the sum of CP, CF, and the percentages of crude fiber, moisture, and ash (determined in the same manner as CP and CF); or

(2) in accordance with testing procedures determined by association of American feed control officials (indicated as "(fed)" in the Pet Nutrition Facts).

B. An affidavit shall be provided upon the request of the department substantiating that the Calorie content was determined by:

(1) Paragraph (1) of Subsection A of 21.18.3.26 NMAC in which case the summary data used in the calculation shall be included in the affidavit; or

(2) Paragraph (2) of Subsection A of 21.18.3.26 NMAC in which case the summary data used in the determination of Calorie content shall accompany the affidavit.

C. The Calories from protein, fat, and carbohydrate as required in the Pet Nutrition Facts are determined using the following calculation, then converted to Calories (kcal) per the familiar household unit (i.e., can, measuring cup, treat, or piece):

(1) Protein: ME (kcal/kg) = 10(3.5 × CP), where ME = metabolizable energy, CP = % crude protein "as fed" and the percentage of CP is the average value in the product as determined by sound scientific methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product.

(2) Fat: ME (kcal/kg) = 10(8.5 × CF), where ME = metabolizable energy, CF = % crude fat "as fed" and the percentage of CF is the average value in the product as determined by sound scientific methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product.

(3) Carbohydrate: ME (kcal/kg) = 10(3.5 × NFE), where ME = metabolizable energy, NFE is calculated as the difference between 100 and the sum of CP, CF, and the percentages of crude fiber, moisture, and ash; CP = % crude protein "as fed," CF = % crude fat "as fed" and the percentages are the average values of these components in the product as determined by sound scientific methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product.

D. Comparative claims shall not be false, misleading, or given undue emphasis and shall be based on the same methodology for the products compared.

[21.18.3.26 NMAC - Rp, 21.18.3.26 NMAC, 10/20/2026]

21.18.3.27 PET FOOD AND SPECIALTY PET FOOD DESCRIPTIVE TERMS:

A. Calorie terms

(1) "Light"

(a) A dog food product which bears on its label the terms "light," "lite," "low calorie," or words of similar designation shall:

(i) contain no more than 3100 kcal ME/kg for products containing less than 20% moisture, no more than 2500 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 900 kcal ME/kg for products containing 65% or more moisture; and

(ii) include on the label feeding directions which reflect a reduction in calorie intake consistent with the purpose.

(b) A cat food product which bears on its label the terms "light," "lite," "low calorie," or words of similar designation shall:

(i) contain no more than 3250 kcal ME/kg for products containing less than 20% moisture, no more than 2650 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 950 kcal ME/kg for products containing 65% or more moisture; and

(ii) include on the label feeding directions which reflect a reduction in calorie intake consistent with the purpose.

(2) "Less" or "reduced calories"

(a) A dog or cat food product which bears on its label a claim of "less calories," reduced calories," or words of similar designation shall include on the label:

(i) the name of the product of comparison and the percentage of calorie reduction (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears; and

(ii) the comparative statement printed in type of the same color and style and at least one-half the type size used in the claim; and

(iii) feeding directions which reflect a reduction in calories compared to feeding directions for the product of comparison.

(b) A comparison between products in different categories of moisture content (i.e., less than 20%, 20% or more but less than 65%, 65% or more) is misleading.

B. Fat terms

(1) "Lean"

(a) A dog food product which bears on its label the terms "lean," "low fat," or words of similar designation shall:

(i) contain no more than 9% crude fat for products containing less than 20% moisture, no more than 7% crude fat for products containing 20% or more but less than 65% moisture, and no more than 4% crude fat for products containing 65% or more moisture;

(ii) include on the product label in the guaranteed analysis: 1) A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in Paragraph (3) of Subsection A of 21.18.3.22; and 2) A maximum crude fat guarantee which is no more than 9% crude fat for products containing less than 20% moisture, no more than 7% crude fat for products containing 20% or more but less than 65% moisture, and no more than 4% crude fat for products containing 65% or more moisture.

(b) A cat food product which bears on its label the terms "lean," "low fat," or words of similar designation shall:

(i) contain a maximum percentage of crude fat which is no more than 10% crude fat for products containing less than 20% moisture, no more than 8% crude fat for products containing 20% or more but less than 65% moisture, and no more than 5% crude fat for products containing 65% or more moisture; and

(ii) include on the product label in the guaranteed analysis: 1) A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in Paragraph (3) of Subsection A of 21.18.3.22 NMAC; and 2) A maximum crude fat guarantee which is no more than 10% crude fat for products containing less than 20% moisture, no more than 8% crude fat for products containing 20% or more but less than 65% moisture, and no more than 5% crude fat for products containing 65% or more moisture.

(2) "Less" or "reduced fat"

(a) A dog or cat food product which bears on its label a claim of "less fat," "reduced fat," or words of similar designation, shall include on the label:

(i) the name of the product of comparison and the percentage of fat reduction (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears; and

(ii) the comparative statement printed in type of the same color and style and at least one-half the type size used in the claim; and

(iii) a maximum crude fat guarantee in the guaranteed analysis immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in Paragraph (1) of Subsection A of 21.18.3.21 NMAC.

(b) A comparison on the label between products in different categories of moisture content (i.e., less than 20%, 20% or more but less than 65%, 65% or more) is misleading.

C. Carbohydrate Terms

(1) “Low” Carbohydrate, Dietary Starch, and Sugars Claims. A claim of “low carbohydrates,” “low dietary starch,” “low sugars” (or a combination thereof) is not allowed.

(2) “Less” or “Reduced” Carbohydrates, Dietary Starch, and Sugars claims.

(a) A dog or cat food product that bears on its label a claim of “less” or “reduced [blank]” (blank is to be completed by using “carbohydrates,” “dietary starch,” or “sugars”), or words of similar designation, shall include on the label:

(i) The name of the product of comparison and the percentage of reduction in total dietary starch plus sugars (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears; and

(ii) the comparative statement printed in type of the same color and style and not less than one-half the size used in the claim; and

(iii) maximum guarantees for dietary starch and sugars as stated in Paragraph (3) of Subsection A of 21.18.3.22 NMAC.

(b) A comparison between products in different categories of moisture content (i.e., less than 20%, 20% or more but less than 65%, 65% or more) is misleading.

[21.18.3.27 NMAC - Rp, 21.18.3.27 NMAC, 10/20/2026]

21.18.3.28 PET FOOD AND SPECIALTY PET FOOD MANUFACTURER OR DISTRIBUTOR; NAME AND ADDRESS:

A. The label of a pet food or specialty pet food shall specify the business or corporate name and address of the manufacturer or distributor. This information shall appear under the header "Manufactured for (blank)," "Distributed by (blank)," or any other wording that expresses the facts, if the business whose name appears on the label is not the manufacturer. The statement of the place of business shall include the street address, city, state, and zip code; however, the street address may be omitted if such street address is shown in a readily accessible, widely published, and publicly available resource, including but not limited to a printed directory, electronic database, or website.

B. When a person manufactures or distributes a pet food or specialty pet food in a place other than the principal place of business, the label may state the principal place of business in lieu of the actual place where each package of such pet food or specialty pet food was manufactured or packaged or from where each package is to be distributed.

[21.18.3.28 NMAC - Rp, 21.18.3.28 NMAC, 10/20/2026]

21.18.3.29 HANDLING AND STORAGE INSTRUCTIONS:

A. A product which bears handling and storage instructions shall display such instructions under the bolded header "Handling and Storage Instructions:" that is separate and distinct from any feeding directions. A header is not required for small packages with a total printable area less than 40 square inches. If any graphics are used to support handling and storage instructions, only the following graphics may be included, with the handling and storage instructions section, as applicable. The graphics with color and accompanying text shall be obtained from the association of American feed control officials website.



B. The handling and storage instructions, if present, shall be displayed in a conspicuous manner so to render them likely to be read under typical conditions of use. Any use of the handling and storage instructions graphics shall be no smaller than:

Panel Size	Minimum Graphic Size (top of circle to bottom of text)
≤40 in.^{2}	1/2 in.
>40 – ≤100 in.^{2}	1 in.
>100 – ≤400 in.^{2}	1 3/4 in.
>400 in.^{2}	2 in.

[21.18.3.29 NMAC - N, 10/20/2026]

21.18.3.30 REGISTRATION EXPIRATION DATE: For the purpose of Section 76-19A-4A, NMSA 1978, all registrations shall expire annually on December 31.
[21.18.3.30 NMAC - Rp, 21.18.3.29 NMAC, 10/20/2026]

21.18.3.31 INSPECTION FEES:

A. An inspection fee of twenty cents ($0.25) per ton is hereby established to be effective on all commercial feeds sold; except that feed for which the department has not developed an inspection service at this time.

B. An inspection fee of twenty-five dollars ($25.00) is hereby established for each brand of commercial feed distributed in individual packages of ten (10) pounds or less sold in New Mexico.
[21.18.3.31 NMAC - Rp, 21.18.3.30 NMAC, 10/20/2026]

21.18.3.32 SPAY AND NEUTER PROGRAM FEE:

A. Additional Fees.

In addition to the commercial feed registration fee, an additional annual spay and neuter program fee of one hundred dollars ($100.00) shall be collected on each pet food registered with the department.

B. Exemptions

(1) A pet food manufacturer shall be exempt of the spay and neuter program fees upon submission of a notarized affidavit attesting that tax-year annual gross revenue from the distribution of pet food is no more than three million dollars. The spay and neuter program fee exemption affidavit shall be submitted to the department on a form furnished by the department.

(2) A pet food manufacturer shall be exempt of the spay and neuter program fees for a specific product upon submission of a notarized affidavit attesting that the specific product meets the definition of prescription diet. The spay and neuter program fee exemption affidavit shall be submitted to the department on a form furnished by the department.

C. Distribution, ninety-six percent of this additional fee collected shall be deposited with the state treasurer to credit the statewide spay and neuter subaccount of the animal care and facility fund. Four percent of this additional fee collected shall be distributed to the department to administer New Mexico Commercial Feed Act.
[21.18.3.32 NMAC - Rp, 21.18.3.31 NMAC, 10/20/2026]

HISTORY OF 21.18.3 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 73-2, Regulatory Order No. 4, Feed Regulations, filed 5/15/1973.
NMDA Rule 73-3, Regulatory Order No. 5, Commercial Feed Regulations, filed 5/15/1973.
NMDA Rule 73-3, Amendment No. 1, Regulatory Order No. 8, Commercial Feed Exemptions, filed 7/1/1976.
NMDA Rule 73-10, Regulatory Order No. 6, filed 11/27/1973.
NMDA Rule 76-5, Regulatory Order No. 7, Feed Inspection Fees, filed 9/28/1976.
NMDA Rule 84-2, Additional Requirements for Liquid Feed Labeling, filed 10/23/1984.

History of Repealed Material:
21.18.3 NMAC - Commercial Feeds, filed 05/12/2009 - Duration expired effective 9/30/2013.
21.18.3 NMAC - Commercial Feeds, filed 9/30/2013 was repealed and replaced by 21.18.3 NMAC – Commercial Feeds, effective October, 20, 2026.

Hearing Officer Recommendation Memo

New Mexico Department of Agriculture
Laboratory Division
MSC 3-LD
PO Box 30005
Las Cruces, NM 88003-8005
575-646-1551, fax 575-646-2361

September 4, 2026

MEMORANDUM

TO: Director/Secretary Jeff Witte

FROM: Tim Darden, Division Director - Hearing Officer Tim Darden Digitally signed by Tim Darden Date: 2026.09.14 13:38:15 -06'00'

SUBJECT: Hearing Officer's Report - RE: New Mexico Department of Agriculture Hearings to repeal and replace Commercial Feeds, 21.18.3 NMAC.

BACKGROUND INFORMATION

The hearings concerning New Mexico Department of Agriculture's (NMDA) proposed repeal and replacement of 21.18.3 NMAC took place on two different occasions and locations as follows:

1. Tuesday, August 4, 2026, in person, by video conference, or by telephone. The hearing took place at the Gerald Thomas Hall Auditorium (Room 194) on the campus of New Mexico State University, located at 940 College Drive, Las Cruces, NM. A court reporter was online in the Zoom for the hearing.

2. Thursday, August 6, 2026, public, in-person hearing at the CNM Workforce Training Center, located at 5600 Eagle Rock Ave NE, Albuquerque, NM. A court reporter was present for the hearing.

Public notices for these hearings were published as follows, and in accordance with state laws:

1. June 23, 2026 in the New Mexico Register
2. June 23, 2026 in the Albuquerque Journal
3. June 23, 2026 in the Santa Fe New Mexican in Spanish and English
4. June 23, 2026 in the Las Cruces Sun News

Hearing notices were also posted on the New Mexico Sunshine Portal and on New Mexico Department of Agriculture's website in Spanish and English.

Copies of the proposed rule were made available at the New Mexico Department of Agriculture Las Cruces main office and on the department's web site.

Notification and the proposed rule were sent to the New Mexico Economic Development's Small Business Regulatory Advisory Commission, and to Legislative Council Service. As of today, New Mexico Department of Agriculture has not received findings from either. Notice of public hearing was sent to all current commercial feed registrants.

The hearing officer provides the following information for consideration by NMDA's director/secretary.

SUMMARY OF THE PROPOSED RULE REPEAL and REPLACEMENT

Primary statutory elements contained in the proposed Commercial Feeds replacement rule include the following (as presented by Agricultural Production Services Division staff):

> The proposed rule repeals and replaces the existing Commercial Feeds Rule to establish a modernized regulatory framework that is more consistent with current industry standards and more closely aligned with nationally recognized model regulations developed by the Association of American Feed Control Officials (AAFCO). Aligning New Mexico's regulations with these nationally recognized standards will promote greater consistency in the administration and enforcement of the Commercial Feed Act, facilitate compliance with applicable state and federal labeling requirements, reduce unnecessary regulatory burdens on regulated entities, and support the efficient interstate distribution of commercial feed and pet food products while maintaining appropriate consumer and animal health protections.

See Exhibit 1 for the Background and Statement of Reasons for Proposed Amendments to 21.18.3 NMAC Commercial Feeds prepared by APS Division Staff and Exhibit 2 for the clean repeal and replacement rule these hearings cover.

PUBLIC COMMENT

There were 8 participants to the Zoom meeting held in Las Cruces, however, no public comments, written or oral, were received at either location or online. One comment letter was submitted to through the notice of hearings at nmdeptag.nmsu.edu by the National Milk Producers Federation (Exhibit 3).

HEARING OFFICER'S CONCLUSION

This memorandum represents the summary of the hearings held at the beginning of August. The content is provided for your consideration and a decision tool for you to present a recommendation to the New Mexico State University Board of Regents for its adoption of the

proposed Repeal and Replacement of Title 21, Chapter 18, Part 3 of the New Mexico Administrative Code (21.18.3 NMAC, Commercial Feeds).

The sole comment submitted to the docket, by the National Milk Producers Federation (NMPF), strongly supports the inclusion of raw milk and raw milk product pet food labeling and denaturing rules contained in 21.18.3.13 D-F NMAC. NMPF included supporting information concerning outbreaks involving the sale and consumption of raw milk and raw milk products.

During the review period, Deputy General Counsel provided recommended changes to the definitions of Veterinary Diet and Prescription Diet. These changes were non-substantive and are incorporated in Exhibit 2.

The hearing officer, based upon the comments and hearing outcomes, suggests adoption of the 21.18.3 NMAC Commercial Feeds replacement in full with the inclusion of Deputy General Counsel's suggested modification to the definition of Veterinary Diet and Prescription Diet.

Please contact me if you have any questions.

Exhibit 1

In the Matter of Proposed Repeal and Replacement Of 20.18.3 NMAC- Commercial Feeds

Background and Statement of Reasons for Proposed Amendments to 21.18.3 NMAC Commercial Feeds

The New Mexico Department of Agriculture administers and enforces the New Mexico Feed Act and associated regulations governing the manufacture, distribution, labeling, and sale of commercial feed products within the state. The purpose of these regulations is to ensure that commercial feed and pet food products are safe, properly labeled, nutritionally appropriate for their intended use, and not misbranded or adulterated.

The current version of 21.18.3 NMAC was developed under earlier industry standards and no longer fully reflects the structure, terminology, labeling practices, and product categories presently used within the commercial feed and companion animal food industries. Since adoption of the current rule, the pet food marketplace has evolved substantially, with increased availability of specialty nutritional products, veterinary diets, raw and refrigerated pet foods, supplements, food mixers, and products marketed using detailed nutritional and ingredient claims.

At the same time, the Association of American Feed Control Officials (AAFCO) has continued to revise and modernize its model regulations and labeling standards to address evolving nutritional science, product marketing practices, and consumer expectations. States have subsequently updated their commercial feed regulations to maintain consistency with these nationally recognized model standards.

The proposed amendments to 21.18.3 NMAC are intended to modernize New Mexico's commercial feed regulations and align the rule more closely with current industry practices, contemporary nutritional science, and updated AAFCO model regulations.

A principal reason for the proposed amendments is the substantial evolution of the companion animal food marketplace. The amendments create standardized regulatory definitions and labeling requirements for modern product categories, including veterinary diets, food supplements, food mixers, raw pet food products, specialty nutritional products, and other products not clearly addressed under the existing rule structure.

The amendments also replace or supplement several outdated labeling concepts with more modern nutritional disclosure standards. In particular, the proposed "Pet Nutrition Facts" and "Specialty Pet Nutrition Facts" systems are intended to provide consumers with clearer and more standardized nutritional information regarding pet food products, including calorie content, nutrient composition, feeding suitability, and intended use.

Additional amendments modernize nutritional adequacy requirements and clarify the standards under which products may be represented as "complete," "balanced," or otherwise nutritionally adequate. The revisions establish more detailed requirements for life-stage claims, specialty pet products, and products intended only for intermittent or supplemental feeding.

The amendments further modernize ingredient declaration standards and product naming requirements. The revised provisions governing ingredient claims, flavor claims, carbohydrate claims, and other marketing terminology are intended to reduce misleading or inconsistent labeling practices and improve uniformity with national labeling standards.

Several amendments are intended to address public health and product safety concerns. New labeling, handling, and warning requirements applicable to raw milk pet food products and raw pet food products are intended to improve consumer awareness and reduce the likelihood of accidental human consumption.

The livestock feed provisions are also updated to reflect current feeding practices and modern nutritional analysis methods. The amendments incorporate newer fiber measurements, revise species classifications, update guaranteed analysis requirements, and improve clarity regarding nutritional disclosures and feeding directions.

In addition to substantive regulatory updates, many amendments improve organization, readability, consistency, and enforceability throughout the rule. Terminology is standardized, duplicative provisions are reduced, and formatting requirements are clarified to assist both regulated entities and enforcement personnel.

Overall, the proposed amendments are intended to:

- modernize New Mexico's commercial feed regulations;
- align the rule with current AAFCO model standards and industry practices;
- improve consumer transparency and understanding;
- strengthen labeling consistency and nutritional disclosure requirements;
- address emerging pet food product categories and marketing practices;
- enhance public health and product safety protections; and
- improve the department's ability to administer and enforce the rule consistently and effectively.

Technical and Scientific Basis Supporting Proposed Amendments to 21.18.3 NMAC

The proposed amendments to 21.18.3 NMAC are supported by current scientific research, modern nutritional standards, national regulatory guidance, and ongoing pet food labeling modernization efforts led by the Association of American Feed Control Officials and the U.S. Food and Drug Administration.

A primary basis for the proposed amendments is the national effort to modernize pet food labeling standards through AAFCO's Pet Food Label Modernization (PFLM) initiative. AAFCO states that the project was initiated in 2015 to modernize pet food labels and provide labeling information that is "transparent, easy to understand, and in a format more familiar to consumers." AAFCO further explains that the modernization process included extensive consumer research, regulator workgroups, industry advisors, and public comment participation. [1]

The proposed amendments establishing "Pet Nutrition Facts" and "Specialty Pet Nutrition Facts" panels are directly consistent with these modernization efforts and are intended to improve consumer understanding of nutritional adequacy, calorie content, feeding suitability, and product purpose.

The amendments revising nutritional adequacy statements and life-stage claims are further supported by FDA guidance regarding "complete and balanced" pet foods. FDA explains that nutritional adequacy statements are critical for determining whether a product is suitable as a pet's sole diet and recognizes AAFCO nutrient profiles and feeding trials as accepted methods for substantiating nutritional adequacy claims [2]. FDA also recognizes the importance of distinguishing products intended for growth, reproduction, and adult maintenance life stages.

The proposed revisions governing ingredient claims, flavor claims, carbohydrate claims, and other marketing representations are supported by longstanding FDA principles prohibiting false or misleading labeling. FDA states that animal food products must be truthfully labeled and contain labeling necessary for safe and appropriate use.[3]

The amendments addressing calorie disclosures, household-unit feeding instructions, and expanded nutritional transparency are also consistent with broader nutrition-labeling principles intended to improve consumer comprehension and informed purchasing decisions. AAFCO specifically identified improved readability, transparency, and consumer usability as core objectives of the Pet Food Label Modernization initiative. [4]

Several amendments are additionally supported by documented public health and food safety concerns associated with raw pet food and raw milk pet food products. The Centers for Disease Control and Prevention states that raw pet food products may contain harmful pathogens including Salmonella and Listeria and expressly advises that CDC "does not recommend feeding raw pet food or treats to dogs and cats." CDC further explains that raw pet foods can create contamination risks for both animals and humans through direct handling and environmental cross-contamination. [5]

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[1] AAFCO introduction of model pet food and specialty pet food regulations: https://www.aafco.org/pflm
[2] FDA "Complete and Balanced" Pet Food: https://www.fda.gov/animal-veterinary/animal-health-literacy/complete-and-balanced-pet-food
[3] FDA- Pet Food: https://www.fda.gov/animal-veterinary/animal-foods-feeds/pet-food
[4] AAFCO introduction of model pet food and specialty pet food regulations: https://www.aafco.org/pflm
[5] CDC – About Pet Food Safety: https://www.cdc.gov/healthy-pets/about/pet-food-safety.html

Recent contamination events further support enhanced warning, handling, and storage requirements for raw pet food products. Multiple recent recalls involving pet food contaminated with Salmonella, Listeria, and H5N1 avian influenza have resulted in FDA advisories and product recalls nationwide. [6]

Requiring enhanced labeling, warning statements, handling instructions, and storage disclosures for pet food products is supported by current scientific literature and public health guidance regarding contamination risks associated with raw animal products. A recent scientific review *Comprehensive reviews in food science and food safety* vol. 23,6 (2024) [7] documented repeated detection of pathogenic bacteria, including *Salmonella*, *E. coli*, and *Listeria*, in commercially available pet food products and identified labeling and handling practices as important risk mitigation measures.

Industry and regulatory support also exists for the broader modernization effort reflected in the proposed amendments. AAFCO has described the Pet Food Label Modernization project as a collaborative effort involving regulators, veterinarians, consumers, and pet food industry advisors. [8]

Overall, the proposed amendments are supported by current nutritional science, modern pet food labeling practices, public health guidance, and nationally recognized regulatory standards intended to improve transparency, nutritional disclosure, consumer understanding, and product safety within the commercial feed and pet food industries.

[6] Raaw Energy Expands Recall of Dog Food Because of Listeria Monocytogenes Health Risk: https://www.fda.gov/safety/recalls-market-withdrawals-safety-alerts/raaw-energy-expands-recall-dog-food-because-listeria-monocytogenes-health-risk. Voluntary Recall of Wild Coast Raw Boneless Free Range Chicken Formula Raw Pet Food Because of Possible Bird Flu Health Risk: https://www.fda.gov/safety/recalls-market-withdrawals-safety-alerts/voluntary-recall-wild-coast-raw-boneless-free-range-chicken-formula-raw-pet-food-because-possible

[7] Salmonella Presence and Risk Mitigation in Pet Foods: A Growing Challenge with Implications for Human Health: https://pmc.ncbi.nlm.nih.gov/articles/PMC11605167/.

[8] AAFCO introduction of model pet food and specialty pet food regulations: https://www.aafco.org/pflm

Substantive Changes Proposed to 21.18.3 NMAC Commercial Feeds

21.18.3.7 NMAC — Definitions

The amendments expand the definitions section to support the revised pet food and specialty pet food regulatory framework.

New definitions are added for "Daily Food," "Familiar Household Unit," "Food Mixer," "Food Supplement," "Pet Nutrition Facts," "Specialty Pet Nutrition Facts," "Veterinary Diet," "Raw Milk," and "Prescription Diet.".

The amendments expand the definition of "All Life Stages" to specifically include dogs, cats, other mammals, and non-mammalian species. The revised definition more clearly distinguishes between growth, maintenance, juvenile, and adult life stages.

Collectively, these amendments modernize the terminology used throughout the rule and provide the legal and regulatory framework necessary to support the revised pet food labeling system.

21.18.3.8 NMAC — Label Format

Section not amended

21.18.3.9 NMAC — Labeling

The amendments revise commercial feed labeling requirements.

The revised section creates new purpose statement requirements for single ingredient feeds. Single ingredient products must now identify themselves as either "single ingredient feed" or "feed ingredient." The amendment distinguishes ingredient products from complete feeds and supplements and improves product identification for consumers.

The amendments also establish entirely new labeling requirements for livestock treats and snacks. Products intended to function as treats or snacks must identify themselves as such and must clearly identify the intended species on the principal display panel.

The guaranteed analysis provisions are modernized through the addition of newer fiber measurements, including Neutral Detergent Fiber (NDF) and additional Acid Detergent Fiber (ADF) references. These revisions recognize modern forage quality and digestibility evaluation methods.

The amendments revise multiple species-specific nutrient guarantee requirements. For swine feed, the mandatory zinc guarantee requirement is removed. Dairy cattle classifications are modernized and reorganized to replace older production terminology with current industry classifications such as replacement dairy heifers, dairy calves, lactating dairy cows, and dry dairy cows.

Equine feed provisions are revised. Older classifications such as "foal," "mare," and "breeding" are replaced with broader production-based categories including "growing," "broodmare," "performance," and "maintenance." Additional fiber guarantees are required for equine feeds.

The amendments create a completely new guaranteed analysis category for livestock treats. Required guarantees now include crude protein, crude fat, crude fiber, and any additional guarantees necessary to support label claims.

Overall, the amendments modernize livestock feed labeling standards and improve clarity, consistency, and nutritional disclosure requirements.

21.18.3.10 NMAC — Expression of Guarantees

The revisions broaden the rule's treatment of fiber guarantees by replacing narrow references to crude fiber and acid detergent fiber with broader references to "other fiber indicators." This amendment accommodates newer analytical methodologies used in modern feed analysis.

The revised section permits mineral and vitamin guarantees to be expressed on a per-unit basis for products such as tablets, capsules, granules, liquids, and other unit-dose products. This amendment is particularly significant for companion animal supplements and specialty nutritional products that are not traditionally sold or administered by weight.

These changes modernize nutrient disclosure standards and improve compatibility with contemporary supplement and specialty nutritional product markets.

21.18.3.11 NMAC — Substantiation of Nutritional Suitability

Section not amended.

21.18.3.12 NMAC — Ingredients

Section not amended.

21.18.3.13 NMAC — Directions for Use and Precautionary Statements

The amendments expand requirements for directions for use and precautionary statements for raw milk distributed as commercial feed.

Raw milk products must bear the statement:

"WARNING: NOT FOR HUMAN CONSUMPTION – THIS PRODUCT HAS NOT BEEN PASTEURIZED AND MAY CONTAIN HARMFUL BACTERIA."

The amendments prescribe mandatory minimum font sizes for the warning statement based on label panel size.

Additional requirements mandate that raw milk distributed as commercial feed be decharacterized with approved coloring agents and prohibit the display or storage of raw milk commercial feed in locations where food is sold or prepared for human consumption unless specified conditions are met.

These amendments significantly expand product safety and public health protections relating to raw milk commercial feed products.

21.18.3.14 NMAC — Non-Protein Nitrogen

The revised section retains the substantive limitations governing use of non-protein nitrogen in ruminant feeds while expanding feeding guidance recommendations for products where substantial protein content is derived from non-protein nitrogen sources.

These revisions primarily improve readability and administrative clarity while maintaining existing safety standards.

21.18.3.15 NMAC — Drug and Feed Additives

Section not amended.

21.18.3.16 NMAC — Adulterants

The amendments retain the existing adulteration framework, while reorganize and clarify provisions relating to adulteration. No major substantive changes are made within this section. The amendments primarily update formatting and readability.

21.18.3.17 NMAC — Good Manufacturing Practices

Section not amended.

21.18.3.18 NMAC — Certain Mammalian Proteins Prohibited in Ruminant Feed

Section not amended.

21.18.3.19 NMAC — Pet Food and Specialty Pet Food Label Format and Labeling

The amendments to Section 21.18.3.19 constitute one of the most significant substantive revisions in the proposed rule. The revised section completely restructures pet food and specialty pet food labeling requirements and substantially expands mandatory disclosures.

The amendments create a new "Pet Nutrition Facts" and "Specialty Pet Nutrition Facts" labeling framework modeled after human food nutrition facts labeling concepts.
The revised section establishes detailed formatting requirements governing:

- principal display panels;
- nutrition facts panels;
- purpose statements;
- species identification;
- feeding directions;
- handling instructions;
- manufacturer information;
- warning statements; and
- specialty product disclosures.

The amendments substantially expand the information required on pet food labels and prescribe formatting standards for type size, placement, line spacing, indentation, and conspicuousness.
The revised section also creates labeling requirements for raw milk pet food products, including mandatory warning statements and source-species identification.
The amendments broaden the scope of regulated pet food products to include:

- food supplements;
- food mixers;
- veterinary diets;
- treats;
- snacks;
- specialty nutritional products; and
- specialty pet foods.

Compared to the current rule, Section 21.18.3.19 establishes a more detailed and prescriptive pet food labeling framework.

21.18.3.20 NMAC — Pet Food and Specialty Pet Food Brand and Product Names

No major substantive changes are made within this section. The amendments primarily update formatting, readability and eliminate duplication created by amendments made in other sections.

21.18.3.21 NMAC — Pet Food and Specialty Pet Food Purpose Statements and Nutritional Adequacy

The amendments comprehensively revise the nutritional adequacy framework for pet food and specialty pet food products. The revised section creates detailed purpose statement requirements for numerous newly recognized product categories, including:

- complete foods;
- complementary foods;
- daily foods;
- food supplements;
- food mixers;
- treats;
- snacks;
- veterinary diets; and
- specialty pet foods.

The amendments establish substantially more detailed requirements governing when products may represent themselves as "complete and balanced," "100% nutritious," or otherwise nutritionally adequate.

The revised section expands life-stage classifications and creates specialized standards for large breed puppy foods.

The amendments clarify acceptable methods for substantiating nutritional adequacy claims, including:

- nutrient profile formulation;
- feeding protocols;
- and family-product substantiation.

Products intended only for intermittent or supplemental feeding must now bear specific disclosure statements.

The amendments create an entirely new regulatory category for "daily food" products intended for specialty pet species lacking recognized nutritional authorities.

The revised section also establishes formal labeling requirements for veterinary diets and strengthens restrictions on misleading nutritional adequacy claims.

Compared to the current rule, Section 21.18.3.21 establishes a substantially more detailed and structured nutritional adequacy framework.

21.18.3.22 NMAC — Pet and Specialty Pet Nutrition Facts

The amendments create an entirely new nutrition disclosure framework for pet food and specialty pet food products.
The current rule relies primarily on traditional guaranteed analysis statements. The revised section instead creates mandatory "Pet Nutrition Facts" and "Specialty Pet Nutrition Facts" panels that resemble human food nutrition facts labels.

The revised section establishes detailed requirements governing:

- caloric disclosures;
- nutrient guarantees;
- nutrient order;
- carbohydrate calculations;
- dietary fiber disclosures;
- moisture disclosures;
- familiar household units;
- formatting;
- line spacing;
- indentation;
- and presentation.

The amendments require disclosure of calories per familiar household unit and caloric contributions from protein, fat, and carbohydrates.

The revised section establishes separate formatting requirements for:
- standard packages;
- small packages; and
- very small packages.

The amendments also create separate nutritional disclosure requirements for food supplements, veterinary diets, food mixers, and specialty pet products.

This section represents one of the largest substantive changes in the proposed rule and fundamentally transforms pet food nutritional disclosure requirements

21.18.3.23 NMAC — Pet Food and Specialty Pet Food Ingredients

The amendments significantly expand ingredient declaration requirements for pet food and specialty pet food products.

The revised section updates ingredient naming standards to incorporate current AAFCO ingredient definitions and FDA naming standards.

The amendments establish detailed rules governing:
- vitamin and mineral premixes;
- microorganism naming;
- fish ingredient naming;
- species identification for meat ingredients;
- codified ingredient standards; and
- grouped ingredient declarations.

The revised section permits ingredient declarations using grouped vitamin and mineral terminology while preserving disclosure of constituent ingredients.

The amendments create substantially more detailed ingredient disclosure requirements than currently exist under the rule.

21.18.3.24 NMAC — Pet Food and Specialty Pet Food Drugs and Additives

The amendments retain the current regulatory framework governing pet food additives and drugs while modernizing formatting and terminology. Revisions are limited and primarily organizational.

21.18.3.25 NMAC — Pet Food and Specialty Pet Food Feeding Directions

The amendments substantially expand feeding direction requirements for pet food and specialty pet food products.

The revised section establishes separate feeding instruction requirements for:

- complete foods;
- supplements;
- treats;
- food mixers;
- veterinary diets; and
- specialty pet foods.

Feeding directions must now use familiar household units such as cups, cans, treats, tablets, or pieces.

Additional requirements govern feeding frequency, serving size, and directions for specialized nutritional products.

These amendments create significantly more detailed feeding direction standards than presently exist under the rule.

21.18.3.26 NMAC — Determination of Calorie Content for Pet Foods

The amendments create detailed calorie content disclosure requirements for pet food and specialty pet food products.

The revised section establishes methods for calculating calorie content through either modified Atwater calculations or feeding trials.

The amendments require disclosure of calories per familiar household unit and create standardized terminology for calorie disclosure statements.

The revised section also establishes methods for calculating calories contributed by protein, fat, and carbohydrates.

This section supports the broader transition from traditional guaranteed analysis labeling toward nutrition-facts-style pet food disclosures.

21.18.3.27 NMAC — Pet Food and Specialty Pet Food Descriptive Terms:

The amendments primarily consist of organizational revisions, formatting modernization, terminology updates, and conforming edits necessary to support the revised pet food labeling and nutritional disclosure framework. No major independent substantive changes are created within the sections beyond harmonization with the revised pet food and labeling provisions.

21.18.3.28 NMAC — Pet Food and Specialty Pet Food Manufacture or Distributor; Name and Address:

The amendment consists of adding a distributed by/ for business name and address requirement when the pet food is not distributed by the manufacture.

21.18.3.29 NMAC - Handling and Storage Instructions

The proposed amendments expand handling and storage instruction requirements for pet food and specialty pet food products.

Under the current rule, handling and storage requirements are limited and generally implied through general labeling standards. The amended rule creates more explicit obligations requiring manufacturers to provide handling and storage instructions whenever necessary to ensure product safety, maintain product integrity, or prevent contamination or spoilage.

The revised provisions allow for the use of storage and handling graphics specified in the proposed amendments relating to:

- separation,
- sanitation,
- refrigeration,
- storage,
- freezing,
- and disposal

Overall, the amendments create a more comprehensive product safety framework by formally incorporating handling and storage disclosures into the pet food labeling requirements, which were previously addressed only minimally or indirectly under the current rule.

21.18.3.30 through 21.18.3.32 NMAC
Revisions are limited and consist of alignment with statutory changes, and removal of redundant langue.

<u>Overall Effect of the Proposed Amendments</u>

The proposed amendments to 21.18.3 NMAC comprehensively modernize New Mexico's commercial feed regulations and align the rule more closely with current AAFCO model regulations and contemporary feed industry practices.

The amendments create a substantially more detailed and prescriptive regulatory framework for pet food and specialty pet food labeling. The most significant changes include:

- creation of Pet Nutrition Facts and Specialty Pet Nutrition Facts labeling systems;
- expanded nutritional adequacy requirements;
- establishment of new product categories such as food mixers, supplements, veterinary diets, and daily foods;
- modernization of ingredient disclosure standards;
- expanded raw milk labeling and warning requirements;
- revised feeding direction standards;
- and expanded nutritional and caloric disclosure obligations.

The amendments also modernize livestock feed labeling, nutrient guarantees, and animal classifications while improving administrative clarity and consistency throughout the rule.

Overall, the proposed amendments are intended to improve consumer transparency, modernize nutritional disclosures, align New Mexico regulations with national standards, and address contemporary commercial feed and pet food marketing practices.

Exhibit 2

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 18 SEEDS, FEEDS, AND FERTILIZERS
PART 3 COMMERCIAL FEEDS

21.18.3.1 ISSUING AGENCY: New Mexico State University, New Mexico Department of Agriculture.
[21.18.3.1 NMAC - Rp, 21.18.3.1 NMAC, October, 20, 2026.]
[MSC 3189, Box 30005, Las Cruces, New Mexico 88003-8005, Telephone No. (575) 646-3007]

21.18.3.2 SCOPE: Part 3 shall apply to any person distributing commercial feeds in New Mexico.
[21.18.3.2 NMAC - Rp, 21.18.3.2 NMAC, October, 20, 2026.]

21.18.3.3 STATUTORY AUTHORITY: Granted to the board of regents of New Mexico state university under the New Mexico Commercial Feed Act, Chapter 76, Article 19A, Sections 1 through 17, New Mexico Statutes Annotated 1978.
[21.18.3.3 NMAC - Rp, 21.18.3.3 NMAC, October, 20, 2026.]

21.18.3.4 DURATION: Permanent.
[21.18.3.4 NMAC - Rp, 21.18.3.4 NMAC, October, 20, 2026.]

21.18.3.5 EFFECTIVE DATE: October, 20, 2026, unless a later date is cited at the end of a section.
[21.18.3.5 NMAC - Rp, 21.18.3.5 NMAC, October, 20, 2026.]

21.18.3.6 OBJECTIVE: The objective of Part 3 of Chapter 18 is to protect the consumers of commercial feed products by establishing standards for their labeling, registration, and sale.
[21.18.3.6 NMAC - Rp, 21.18.3.6 NMAC, October, 20, 2026.]

21.18.3.7 DEFINITIONS:

A. The names and definitions for commercial feeds shall be the official definition of feed ingredients adopted by the association of American feed control officials, except as the department designates otherwise in specific cases.

B. The terms used in reference to commercial feeds shall be the official feed terms adopted by the association of American feed control officials, except as the department designates otherwise in specific cases.

C. The following commodities are hereby declared exempt from the definition of commercial feed, under the provisions of Section 76-19A-5A NMSA 1978: raw meat and loose salt when unground and when not mixed or intermixed with other materials: provided that these commodities are not adulterated within the meaning of Section 76-19A-8 NMSA 1978.

D. The definitions in Section 76-19A-2 NMSA 1978 shall apply in addition to the following:

(1) Principal display panel means the part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

(2) Ingredient statement means a collective and contiguous listing on the label of the ingredients of which the pet food or specialty pet food is composed.

(3) Immediate container means the unit, can, box, tin, bag, or other receptacle or covering in which a pet food or specialty pet food is displayed for sale to retail purchasers, but does not include containers used as shipping containers.

(4) All life stages means gestation/lactation, growth, and adult maintenance life stages for dogs, cats, and other mammals or adult (including breeding animals) and juvenile life stages for non-mammalian species.

(5) Family means a group of products, which are nutritionally adequate for any or all life stages based on their nutritional similarity to a lead product, which has been successfully test-fed according to an association of American feed control officials feeding protocol(s).

(6) Daily food means a specialty pet food product, other than a treat, food mixer or food supplement, for specialty pet species with no recognized nutritional authority.

(7) Familiar household unit means a typical feeding unit in volume or count (e.g., can, measuring cup, treat, or piece).

(8) Food mixer means a pet or specialty pet food product that is intended to top, accompany, or contribute to a complete diet but is not generally intended to be a complete diet.

(9) Food supplement means a pet or specialty pet food product that is intended to supply specific nutrient(s) or other food components but is not a complete diet.

(10) Pet nutrition facts means a graphic box located on the label containing nutritional information for a pet food product.

(11) Specialty pet nutrition facts means a graphic box located on the label containing nutritional information for a specialty pet food product.

(12) Veterinary Diet means a pet or specialty pet food product that is intended only to be used at the direction of and under the supervision of a licensed veterinarian.

(13) Raw milk means any milk or milk product, exclusive of USDA licensed veterinary biologics, from any species other than humans, that has not been pasteurized in accordance with processes recognized by the US food and drug administration.

(14) Prescription diet see Veterinary Diet.

E. Department means the New Mexico department of agriculture.

[21.18.3.7 NMAC - Rp, 21.18.3.7 NMAC, October, 20, 2026.]

21.18.3.8 LABEL FORMAT:

A. Commercial feed, other than customer-formula feed, shall be labeled with the information prescribed in this regulation on the principal display panel of the product and in the following format:

(1) product name and brand name, if any, as stipulated in Subsection A of 21.18.3.9 NMAC;

(2) if a drug is used, label as stipulated in Subsection B of 21.18.3.9 NMAC;

(3) purpose statement as stipulated in Subsection C of 21.18.3.9 NMAC;

(4) guaranteed analysis as stipulated in Subsection D of 21.18.3.9 NMAC;

(5) feed ingredients as stipulated in Subsection E of 21.18.3.9 NMAC and in 21.18.3.12 NMAC;

(6) directions for use and precautionary statements as stipulated in Subsection F of 21.18.3.9 NMAC and in 21.18.3.13 NMAC;

(7) name and principal mailing address of the manufacturer or person responsible for distributing the feed as stipulated in Subsection G of 21.18.3.9 NMAC;

(8) quantity statement.

B. Principal display panel**:**

(1) The information as required in Paragraphs (1), (2), (3), and (8) of Subsection A of 21.18.3.8 NMAC must appear in its entirety on the principal display panel.

(2) The information required by Paragraphs (4), (5), (6), and (7) of Subsection A of 21.18.3.8 NMAC shall be displayed in a prominent place on the feed tag or label, but not necessarily on the principal display panel. When a precautionary statement required by Paragraph (6) of Subsection A of 21.18.3.8 NMAC does not appear on the principal display panel, it must be referenced on the principal display panel with a statement such as "See back of label for precautions."

C. None of the information required by 21.18.3.8 NMAC shall be subordinated or obscured by other statements or designs.

D. Customer-formula feed shall be accompanied with the information prescribed in this regulation using labels, invoice, delivery ticket, or other shipping document bearing the following information:

(1) the name and address of the manufacturer;

(2) the name and address of the purchaser;

(3) the date of sale or delivery;

(4) the customer-formula feed name and brand name if any;

(5) the product name and net quantity of each registered commercial feed and each other ingredient used in the mixture;

(6) the direction for use and precautionary statements as required by 21.18.3.13 NMAC and 21.18.3.14 NMAC.

(7) If a drug containing product is used:

(a) the purpose of the medication (claim statement);

(b) the established name of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with Subsection D of 21.18.3.10 NMAC.
[21.18.3.8 NMAC - Rp, 21.18.3.8 NMAC, October, 20, 2026.]

21.18.3.9 LABEL INFORMATION: Commercial feed, other than customer-formula feed, shall be labeled with the information prescribed in this regulation.

A. Product name and brand name, if any.

(1) The brand or product name must be appropriate for the intended use of the feed and must not be misleading. If the name indicates the feed is made for a specific use, the character of the feed must conform therewith. A commercial feed for a particular animal class must be suitable for that purpose.

(2) Commercial, registered brand, or trade names are not permitted in guarantees or ingredient listings and only in the product name of feeds produced by or for the firm holding the rights to such a name.

(3) The name of a commercial feed shall not be derived from one or more ingredients of a mixture to the exclusion of other ingredients and shall not be one representing any components of a mixture unless all components are included in the name: Provided that if any ingredient or combination of ingredients is intended to impart a distinctive characteristic to the product which is of significance to the purchaser, the name of that ingredient or combination of ingredients may be used as a part of the brand name or product name if the ingredients or combination of ingredients is quantitatively guaranteed in the guaranteed analysis, and the brand or product name is not otherwise false or misleading.

(4) The word "protein" shall not be permitted in the product name of a feed that contains added non-protein nitrogen.

(5) When the name carries a percentage value, it shall be understood to signify protein or equivalent protein content only, even though it may not explicitly modify the percentage with the word "protein": provided that other percentage values may be permitted if they are followed by the proper description and conform to good labeling practice. Digital numbers shall not be used in such a manner as to be misleading or confusing to the customer.

(6) Single ingredient feeds shall have a product name in accordance with the designated definition of feed ingredients as recognized by the association of American feed control officials unless the department designates otherwise.

(7) The word "vitamin," or a contraction thereof, or any word suggesting vitamin can be used only in the name of a feed which is represented to be a vitamin supplement, and which is labeled with the minimum content of each vitamin declared, as specified in Subsection C of 21.18.3.10 NMAC.

(8) The term "mineralized" shall not be used in the name of a feed except for "TRACE MINERALIZED SALT." When so used, the product must contain significant amounts of trace minerals, which are recognized as essential for animal nutrition.

(9) The term "meat" and "meat by-products" shall be qualified to designate the animal from which the meat and meat by-products is derived unless the meat and meat by-products are made from cattle, swine, sheep and goats.

(10) If the commercial feed consists of raw milk, the words “Raw (blank) Milk” shall appear conspicuously on the principal display panel. (Blank is to be completed by using the species of animal from which the raw milk is collected.)

B. If a drug is used:

(1) The word "medicated" shall appear directly following and below the product name in type size no smaller than one-half the type size of the product name.

(2) Purpose statement as required in Subsection C of 21.18.3.9 NMAC.

(3) The purpose of medication (claim statement).

(4) An active ingredient statement listing the active drug ingredients by their established name and the amounts in accordance with Subsection D of 21.18.3.10 NMAC.

C. Purpose statement:

(1) The statement of purpose shall contain the specific species and animal class(es) for which the feed is intended as defined in Subsection D of 21.18.3.9 NMAC.

(2) The manufacturer shall have flexibility in describing in more specific and common language the defined animal class, species, and purpose while being consistent with the category of animal class defined in Subsection D of 21.18.3.9 NMAC which may include, but is not limited to, weight range(s), sex, or ages

of the animal(s) for which the feed is manufactured.

(3) The purpose statement may be excluded from the label if the product name includes a description of the species and animal class(es) for which the product is intended.

(4) The purpose statement of a premix for the manufacture of feed may exclude the animal class and species and state "For Further Manufacture of Feed" if the nutrients contained in the premix are guaranteed and sufficient for formulation into various animal species feeds and premix specifications are provided by the end user of the premix. (This section applicable to commercial feeds regulated under Item (x) of Subparagraph (b) of Paragraph (11) of Subsection D of 21.18.3.9 NMAC.

(5) The purpose statement of a single purpose ingredient blend, such as a blend of animal protein products, milk products, fat products, roughage products, or molasses products may exclude the animal class and species and state "For Further Manufacture of Feed" if the label guarantees of the nutrients contained in the single purpose nutrient blend are sufficient to provide for formulation into various animal species feeds. (This section applicable to commercial feeds regulated under Item (x) of Subparagraph (b) of Paragraph (11) of Subsection D of 21.18.3.9 NMAC.)

(6) The purpose statement of a product shall include a statement of enzyme functionality if enzymatic activity is represented in any manner.

(7) The statement of purpose for single ingredient feeds shall be stated as “single ingredient feed” or “feed ingredient.” The manufacturer of a single ingredient feed or feed ingredient shall have flexibility in describing in more specific and common language the intended use of the feed ingredient dependent on species and class.

(8) The purpose statement of a feed intended as a treat for a designated species (exclusive of pets and specialty pets) shall include the words “treat” or “snack” and the intended species conspicuously on the principal display panel.

D. Guarantees - crude protein, equivalent crude protein from non-protein nitrogen, amino acids, crude fat, crude fiber, acid detergent fiber, calcium, phosphorus, salt, and sodium shall be the sequence of nutritional guarantees when such guarantee is stated. Other required and voluntary guarantees should follow in a general format such that the units of measure used to express guarantees (percentage, parts per million, international units, etc.) are listed in a sequence that provides a consistent grouping of the units of measure.

(1) Required guarantees for swine formula feeds.

(a) animal classes:

(i) pre-starter - 2 to 11 pounds;

(ii) starter - 11 to 44 pounds;

(iii) grower - 44 to 110 pounds;

(iv) finisher - 110 to market weight;

(v) gilts, sows, and adult boars;

(vi) lactating gilts and sows;

(b) guaranteed analysis for swine complete feeds and supplements (all animal classes):

(i) minimum percentage of crude protein;

(ii) minimum percentage of lysine;

(iii) minimum percentage of crude fat;

(iv) maximum percentage of crude fiber;

(v) minimum and maximum percentage of calcium;

(vi) minimum percentage of phosphorus;

(vii) minimum and maximum percentage of salt (if added);

(viii) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;

(ix) minimum selenium in parts per million (ppm);

(x) minimum zinc in parts per million (ppm).

(2) Required guarantees for formula poultry feeds (broilers, layers, and turkeys).

(a) animal classes:

(i) layer - chickens that are grown to produce eggs for food, e.g., table eggs: 1) starting/growing - from day of hatch to approximately 10 weeks of age; 2) finisher - from approximately 10 weeks of age to time first egg is produced. (approximately 20 weeks of age); 3) laying - from time first egg is laid throughout the time of egg production; 4) breeders - chickens that produce fertile eggs for hatch replacement layers

to produce eggs for food, table eggs, from time first egg is laid throughout their productive cycle;

(ii) broilers - chickens that are grown for human food: 1) starting/growing - from day of hatch to approximately 5 weeks of age; 2) finisher - from approximately 5 weeks of age to market, (42 to 52 days); 3) breeders - hybrid strains of chickens whose offspring are grown for human food, (broilers), any age and either sex;

(iii) broilers, breeders - chickens whose offspring are grown for human food (broilers): 1) starting/growing - from day of hatch until approximately 10 weeks of age; 2) finishing - from approximately 10 weeks of age to time first egg is produced, approximately 20 weeks of age; 3) laying - fertile egg producing chickens (broilers/roasters) from day of first egg throughout the time fertile eggs are produced;

(iv) turkeys: 1) starting/growing - turkeys that are grown for human food from day of hatch to approximately 13 weeks of age (females) and 16 weeks of age (males); 2) finisher - turkeys that are grown for human food, females from approximately 13 weeks of age to approximately 17 weeks of age and males from 16 weeks of age to 20 weeks of age (or desired market weight); 3) laying - female turkeys that are producing eggs from time first egg is produced throughout the time they are producing eggs; 4) breeder - turkeys that are grown to produce fertile eggs from day of hatch to time first egg is produced (approximately 30 weeks of age), both sexes;

(b) guaranteed analysis for poultry complete feeds and supplements (all animal classes):

(i) minimum percentage of crude protein;
(ii) minimum percentage of lysine;
(iii) minimum percentage of methionine;
(iv) minimum percentage of crude fat;
(v) maximum percentage of crude fiber;
(vi) minimum and maximum percentage of calcium;
(vii) minimum percentage of phosphorus;
(viii) minimum and maximum percentage of salt (if added);
(ix) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.

(3) Required guarantees for beef cattle formula feeds.

(a) animal classes:

(i) calves (birth to weaning);
(ii) cattle on pasture (may be specific as to production stage; e.g. stocker, feeder, replacement heifers, brood cows, bulls, etc.);
(iii) feedlot cattle;

(b) guaranteed analysis for beef complete feeds and supplements (all animal classes):

(i) minimum percentage of crude protein;
(ii) maximum percentage of equivalent crude protein from non-protein nitrogen (NPN) when added;
(iii) minimum percentage of crude fat;
(iv) maximum percentage of crude fiber;
(v) minimum and maximum percentage of calcium;
(vi) minimum percentage of phosphorus;
(vii) minimum and maximum percentage of salt (if added);
(viii) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;
(ix) minimum percentage of potassium;
(x) minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added);

(c) guaranteed analysis for beef mineral feeds (if added):

(i) minimum and maximum percentage calcium;
(ii) minimum percentage of phosphorus;
(iii) minimum and maximum percentage of salt;
(iv) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;

(v) minimum percentage of magnesium;
(vi) minimum percentage of potassium;
(vii) minimum copper in parts per million (ppm);
(viii) minimum selenium in parts per million (ppm);
(ix) minimum zinc in parts per million (ppm);
(x) minimum vitamin A, other than precursors of vitamin A, in international units per pound.

(4) Required guarantees for dairy formula feeds.

(a) animal classes:

(i) veal milk replacer - milk replacer to be fed for veal production;
(ii) herd milk replacer - milk replacer to be fed for herd replacement calves;
(iii) starter - approximately 3 days to 3 months;
(iv) non-lactating dairy cattle: replacement dairy heifers, dairy bulls and dairy calves
(v) lactating dairy cattle;
(vi) non-lactating dairy cattle;

(b) guaranteed analysis for veal and herd replacement milk replacer:

(i) minimum percentage crude protein;
(ii) minimum percentage crude fat;
(iii) maximum percentage of crude fiber;
(iv) minimum and maximum percentage calcium;
(v) minimum percentage of phosphorus;
(vi) minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added);

(c) guaranteed analysis for dairy cattle complete feeds and supplements:

(i) minimum percentage of crude protein;
(ii) maximum percentage of equivalent crude protein from non-protein nitrogen (NPN) when added;
(iii) minimum percentage of crude fat;
(iv) maximum percentage of crude fiber;
(v) maximum percentage of acid detergent fiber (ADF);
(vi) minimum and maximum percentage of calcium;
(vii) minimum percentage of phosphorus;
(viii) minimum selenium in parts per million (ppm);
(ix) minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added);

(d) required guaranteed analysis for dairy mixing and pasture mineral (if added):

(i) minimum and maximum percentage of calcium;
(ii) minimum percentage of phosphorus;
(iii) minimum and maximum percentage of salt;
(iv) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;
(v) minimum percentage of magnesium;
(vi) minimum percentage of potassium;
(vii) minimum selenium in parts per million (ppm);
(viii) minimum vitamin A, other than the precursors of vitamin A, in international units per pound.

(5) Required guarantees for equine formula feeds.

(a) animal classes:

(i) growing;
(ii) broodmare;
(iii) maintenance;
(iv) performance (including stallions);

(b) guaranteed analysis for equine complete feeds and supplements (all animal

classes):

(i) minimum percentage of crude protein;
(ii) minimum percentage of crude fat;
(iii) maximum percentage of crude fiber;
(iv) maximum percentage of acid detergent fiber (adf)
(v) maximum percentage of neutral detergent fiber (ndf)
(vi) minimum and maximum percentage of calcium;
(vii) minimum percentage of phosphorus;
(viii) minimum copper in parts per million (ppm);
(ix) minimum selenium in parts per million (ppm);
(x) minimum zinc in parts per million (ppm);
(xi) minimum vitamin A, other than the precursors of vitamin A, in international units per pound (if added).

(c) guaranteed analysis for equine mineral feeds (all animal classes):
(i) minimum and maximum percentage of calcium;
(ii) minimum percentage of phosphorus;
(iii) minimum and maximum percentage of salt (if added);
(iv) minimum and maximum percentage of sodium shall be guaranteed only when the total sodium exceeds that furnished by the maximum salt guarantee;
(v) minimum copper in parts per million (ppm);
(vi) minimum selenium in parts per million (ppm);
(vii) minimum zinc in parts per million (ppm);
(viii) minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).

(6) Required guarantees for goat formula feeds.
(a) animal classes:
(i) starter;
(ii) grower;
(iii) finisher;
(iv) breeder;
(v) lactating;

(b) guaranteed analysis for goat complete feeds and supplements (all animal classes):
(i) minimum percentage of crude protein;
(ii) maximum percentage of equivalent crude protein from non-protein nitrogen (NPN) when added;
(iii) minimum percentage of crude fat;
(iv) maximum percentage of crude fiber;
(v) maximum percentage of acid detergent fiber
(vi) minimum and maximum percentage of calcium;
(vii) minimum percentage of phosphorus;
(viii) minimum and maximum percentage of salt (if added);
(ix) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;
(x) minimum and maximum copper in parts per million (ppm) (if added);
(xi) minimum selenium in parts per million (ppm);
(xii) minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).

(7) Required guarantees for sheep formula feeds:
(a) animal classes:
(i) starter;
(ii) grower;
(iii) finisher;
(iv) breeder;
(v) lactating;

(b) guaranteed analysis for sheep complete feeds and supplements (all animal classes):

(i) minimum percentage of crude protein;

(ii) maximum percentage of equivalent crude protein from non-protein nitrogen (NPN) when added;

(iii) minimum percentage of crude fat;

(iv) maximum percentage of crude fiber;

(v) minimum and maximum percentage of calcium;

(vi) minimum percentage of phosphorus;

(vii) minimum and maximum percentage of salt (if added);

(viii) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;

(ix) minimum and maximum copper in parts per million (ppm) (if added, or if total copper exceeds 20 ppm);

(x) minimum selenium in parts per million (ppm);

(xi) minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).

(8) Required guarantees for duck and geese formula feeds.

(a) animal classes:

(i) ducks: 1) starter - 0 to 3 weeks of age; 2) grower - 3 to 6 weeks of age; 3) finisher - 6 weeks to market; 4) breeder developer - 8 to 19 weeks of age; 5) breeder - 22 weeks to end of lay;

(ii) geese: 1) starter - 0 to 4 weeks of age; 2) grower - 4 to 8 weeks of age; 3) finisher - 8 weeks to market; 4) breeder developer - 10 to 22 weeks of age; 5) breeder - 22 weeks to end of lay.

(b) guaranteed analysis for duck and geese complete feeds and supplements (for all animal classes):

(i) minimum percentage of crude protein;

(ii) minimum percentage of crude fat;

(iii) maximum percentage of crude fiber;

(iv) minimum and maximum percentage of calcium;

(v) minimum percentage of phosphorus;

(vi) minimum and maximum percentage of salt (if added);

(vii) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.

(9) Required guarantees for fish complete feeds and supplements.

(a) animal species shall be declared in lieu of animal class:

(i) trout;

(ii) catfish;

(iii) species other than trout or catfish;

(b) guaranteed analysis for all fish complete feeds and supplements:

(i) minimum percentage of crude protein;

(ii) minimum percentage of crude fat;

(iii) maximum percentage of crude fiber;

(iv) minimum percentage of phosphorus.

(10) Required guarantees for rabbit complete feeds and supplements.

(a) animal classes:

(i) grower - 4 to 12 weeks of age;

(ii) breeder - 12 weeks of age and over;

(b) guaranteed analysis for rabbit complete feeds and supplements (all animal classes):

(i) minimum percentage of crude protein;

(ii) minimum percentage of crude fat;

(iii) minimum and maximum percentage of crude fiber (the maximum crude fiber shall not exceed the minimum by more than 5.0 units);

(iv) minimum and maximum percentage of calcium;

(v) minimum percentage of phosphorus;

(vi) minimum and maximum percentage of salt (if added);

(vii) minimum and maximum percentage of total sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee;

(viii) minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).

(11) The required guarantees of grain mixtures with or without molasses and feeds other than those described in Paragraphs (1) through (9) of Subsection D of 21.18.3.9 NMAC shall include the following items, unless exempt in Paragraph (12) of Subsection D of 21.18.3.9 NMAC, in the order listed:

(a) animal class(es) and species for which the product is intended.

(b) guaranteed analysis:

(i) minimum percentage crude protein;

(ii) maximum or minimum percentage of equivalent crude protein from non-protein nitrogen as required in Subsection E of 21.18.3.10 NMAC;

(iii) minimum percentage of crude fat;

(iv) maximum percentage of crude fiber;

(v) minerals in formula feeds, to include in the following order: 1) minimum and maximum percentages of calcium; 2) minimum percentage of phosphorus; 3) minimum and maximum percentage of salt (if added); 4) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee; 5) other minerals;

(vi) minerals in feed ingredients - as specified by the official definitions of the association of American feed control officials;

(vii) vitamins in such terms as specified in Subsection C of 21.18.3.10 NMAC;

(viii) total sugars as invert on dried molasses products or products being sold primarily for their sugar content;

(ix) viable lactic acid producing microorganisms for use in silages in terms specified in Subsection G of 21.18.3.10 NMAC;

(x) a commercial feed (e.g. vitamin/mineral premix, base mix, etc.) intended to provide a specialized nutritional source for use in the manufacture of other feeds, must state its intended purpose and guarantee those nutrients relevant to such stated purpose.

(12) Required guarantees for treats (all animal classes and species, exclusive of pets and specialty pets):

(a) Minimum percentage of crude protein

(b) Minimum percentage of crude fat

(c) Maximum percentage of crude fiber

(d) Other guarantees, as needed to support nutrient content claims in the labeling as per Paragraph (3) of Section 76-19A-9A NMSA 1978, and in accordance with terminology, order of guarantees and units of expression as specified in Subsection D of 21.18.3.9 NMAC and 21.18.3.10 NMAC

(13) Exemptions.

(a) A mineral guarantee for feed, excluding those feeds manufactured as complete feeds and for feed supplements intended to be mixed with grain to produce a complete feed for swine, poultry, fish, and veal and herd milk replacers, is not required when:

(i) the feed or feed ingredient is not intended or represented or does not serve as a principal source of that mineral to the animal; or

(ii) the feed or feed ingredient is intended for non-food producing animals and contains less than six and one-half percent total mineral.

(b) Guarantees for vitamins are not required when the commercial feed is neither formulated for nor represented in any manner as a vitamin supplement.

(c) Guarantees for crude protein, crude fat, and crude fiber are not required when the commercial feed is intended for purposes other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, such as drug premixes, mineral or vitamin supplements, and molasses.

(d) Guarantees for microorganisms are not required when the commercial feed is intended for a purpose other than to furnish these substances or they are of minor significance relating to the primary purpose of the product and no specific label claims are made.

(e) The indication for animal class(es) and species is not required on single ingredient products if the ingredient is not intended, represented, or defined for a specific animal class(es) or species.

E. Feed ingredients, collective terms for the grouping of feed ingredients, or appropriate statements as provided under the provisions of Subsection 4 of Section 76-19A-9A NMSA 1978.

(1) The name of each ingredient as defined in the official publication of the association of American feed control officials, common or usual name, or one approved by the department.

(2) Collective terms for the grouping of feed ingredients as defined in the official definitions of feed ingredients published in the official publication of the association of American feed control officials in lieu of the individual ingredients; provided that:

(a) when a collective term for a group of ingredients is used on the label, individual ingredients within that group shall not be listed on the label;

(b) the manufacturer shall provide the feed control official, upon request, with a list of individual ingredients, within a defined group, that are or have been used at manufacturing facilities distributing in or into the state.

(3) The registrant may affix the statement, "ingredients as registered with the state" in lieu of ingredient list on the label. The list of ingredients must be on file with the department. This list shall be made available to the feed purchaser upon request.

F. Directions for use and precautionary statements or reference to their location if the detailed feeding directions and precautionary statements required by 21.18.3.13 NMAC and 21.18.3.14 NMAC appear elsewhere on the label.

G. Name, city, state, and zip code of the manufacturer or person responsible for distributing the feed.

H. Quantity statement.

(1) Net quantity shall be declared in terms of weight, liquid measure, or count based on applicable requirements under the Fair Packaging and Labeling Act (Title 15 U.S.C. 1453).

(2) Net quantity labeled in terms of weight shall be expressed both in pounds, with any remainder in terms of ounces or common or decimal fractions of the pound and in appropriate Si metric system units; or in the case of liquid measure, both in the largest whole unit (quarts, quarts and pints, or pints, as appropriate) with any remainder in terms of fluid ounces or common or decimal fractions of the pint of quart and in appropriate Si metric system units.

(3) When the declaration of quantity of contents by count does not give adequate information as to the quantity of feed in the container, it shall be combined with such statement of weight, liquid measure, or size of the individual units as will provide such information.

[21.18.3.9 NMAC - Rp, 21.18.3.9 NMAC, October, 20, 2026.]

21.18.3.10 EXPRESSION OF GUARANTEES:

A. The guarantees for crude protein, equivalent crude protein from non-protein nitrogen, lysine, methionine, other amino acids, crude fat, crude fiber, and acid detergent fiber shall be in terms of percentage.

B. Mineral guarantees

(1) When the calcium, salt, and sodium guarantees are given in the guaranteed analysis, such shall be stated and conform to the following:

(a) When the minimum is below two and a half percent the maximum shall not exceed the minimum by more than 0.5 percentage point.

(b) When the minimum is two and a half percent but less than five percent the maximum shall not exceed the minimum by more than one percentage point.

(c) When the minimum is above five percent or greater, the maximum shall not exceed the minimum by more than twenty percent of the minimum and in no case shall the maximum exceed the minimum by more than five percentage points.

(2) When stated, guarantees for minimum and maximum total sodium and salt: minimum potassium, magnesium, sulfur, phosphorus, and maximum fluorine shall be in terms of percentage. Other minimum mineral guarantees shall be stated in parts per million (ppm) when the concentration is less than 10,000 ppm and in percentage when the concentration is 10,000 ppm (one percent) or greater.

(3) Products labeled with a quantity statement (e.g., tablets, capsules, granules, or liquid) may state mineral guarantees in milligrams (mg) per unit (e.g., tablets, capsules, granules, or liquids) consistent with the quantity statement and directions for use.

C. Guarantees for minimum vitamin content of commercial feeds shall be listed in the order specified and are stated in mg/lb or in units consistent with those employed for the quantity statement unless otherwise specified:

(1) vitamin A, other than precursors of vitamin A, in international units per pound.

(2) vitamin D-3 in products offered for poultry feeding, in international chick units per pound.

(3) vitamin D for other uses, international units per pound.

(4) vitamin E, in international units per pound.

(5) concentrated oils and feed additive premixes containing vitamins A, D or E may, at the option of the distributor, be stated in units per gram instead of units per pound.

(6) vitamin B-12, in milligrams or micrograms per pound.

(7) all other vitamin guarantees shall express the vitamin activity in milligrams per pound in terms of the following: menadione; riboflavin; d-pantothenic acid; thiamine; niacin; vitamin B-6; folic acid; choline; biotin; inositol; p-amino benzoic acid; ascorbic acid; and carotene.

(8) Products labeled with a quantity statement (e.g., tablets, capsules, granules, or liquid) may state vitamin guarantees in milligrams per unit (e.g., tablets, capsules, granules, or liquids) consistent with the quantity statement and directions for use.

D. Guarantees for drugs shall be stated in terms of percent by weight, except:

(1) antibiotics, present at less than 2,000 grams per ton (total) of commercial feed shall be stated in grams per ton of commercial feed;

(2) antibiotics present at 2,000 or more grams per ton (total) of commercial feed, shall be stated in grams per pound of commercial feed;

(3) the term "milligrams per pound" may be used for drugs or antibiotics in those cases where a dosage is given in "milligrams" in the feeding directions.

E. Commercial feeds containing any added non-protein nitrogen shall be labeled as follows:

(1) For ruminants

(a) Complete feeds, supplements, and concentrates containing added non-protein nitrogen and containing more than five percent protein from natural sources shall be guaranteed as follows:

(i) crude protein, minimum, _____ %

(ii) This includes not more than _____ % equivalent crude protein from non-protein nitrogen.

(b) Mixed feed concentrates and supplements containing less than five percent protein from natural sources may be guaranteed as follows:
equivalent crude protein from non-protein nitrogen, minimum, _____ %

(c) Ingredient sources of non-protein nitrogen such as urea, diammonium phosphate, ammonium polyphosphate solution, ammoniated rice hulls, or other basic non-protein nitrogen ingredients defined by the association of American feed control officials shall be guaranteed as follows:

(i) nitrogen, minimum, ____ %

(ii) equivalent crude protein from non-protein nitrogen, minimum, ____ %

(2) For non-ruminants

(a) Complete feeds, supplements, and concentrates containing crude protein from all forms of non-protein nitrogen, added as such, shall be labeled as follows:

(i) crude protein, minimum _____ %

(ii) this includes not more than _____ % equivalent crude protein which is not nutritionally available to (species of animal for which feed is intended.

(b) Premixes, concentrates, or supplements intended for non-ruminants containing more than one and one-quarter percent equivalent crude protein from all forms of non-protein nitrogen, added as such, must contain adequate directions for use and a prominent statement: "**WARNING: This feed must be used only in accordance with directions furnished on the label**.

F. Mineral phosphatic materials for feeding purposes shall be labeled with the guarantee for minimum and maximum percentage of calcium (when present), the minimum percentage of phosphorus, and the maximum percentage of fluorine.

G. Guarantees for microorganisms shall be stated in colony forming units per gram (CFU/g) when directions are for using the product in grams or in colony forming units per pound (CFU/lb) when directions are for using the product in pounds. A parenthetical statement following the guarantee shall list each species in order of

predominance.

H. Guarantees for enzymes shall be stated in units of enzymatic activity per unit weight or volume, consistent with label directions. The source organism for each type of enzymatic activity shall be specified, such as: protease (bacillus subtilis) 5.5 mg amino acids liberated/min./milligram. If two or more sources have the same type of activity, they shall be listed in order of predominance based on the amount of enzymatic activity provided.

I. Guarantees for dietary starch, sugars, and fructans for Commercial Feeds, other than customer-formula feed, Pet Food and Specialty Pet Food Products:

(1) A commercial feed which bears on its labeling a claim in any manner for levels of "dietary starch," "sugars," "fructans," or words of similar designation, shall include on the label:

(a) guarantees for maximum percentage of dietary starch and maximum percentage sugars, in the Guaranteed Analysis section immediately following the last fiber guarantee;

(b) a maximum percentage guarantee for fructans immediately following sugars, if the feed contains forage products.

(2) When such guarantees for dietary starch, sugars or fructans for commercial feeds appear on the label, feeding directions shall indicate the proper use of the feed product and a recommendation to consult with a veterinarian or nutritionist for a recommended diet.

[21.18.3.10 NMAC - Rp, 21.18.3.10 NMAC, October, 20, 2026.]

21.18.3.11 SUBSTANTIATION OF NUTRITIONAL SUITABILITY:

A. A commercial feed, other than a customer-formula feed, shall be nutritionally suitable for its intended purpose as represented by its labeling.

B. If the department has reasonable cause to believe a commercial feed is not nutritionally suitable, the department may request the feed manufacturer to either submit an "Affidavit of Suitability" or an alternative procedure acceptable to the department, certifying the nutritional adequacy of the feed. The affidavit of suitability or alternate procedure of suitability shall serve as substantiation of the suitability of the feed.

C. If an affidavit of suitability or alternative procedure acceptable to the department is not submitted by the feed manufacturer within 30 days of written notification, the department may deem the feed adulterated in accordance with Section 76-19A-8M NMSA 1978 and order the feed removed from the marketplace.

D. The affidavit of suitability shall contain the following information:

(1) the feed company's name;

(2) the feed's product name;

(3) the name and title of the affiant submitting the document;

(4) a statement that the affiant has knowledge of the nutritional content of the feed and based on valid scientific evidence the feed is nutritionally adequate for its intended purpose;

(5) the date of submission; and,

(6) the signature of the affiant notarized by a certified notary public.

[21.18.3.11 NMAC - Rp, 21.18.3.11 NMAC, October, 20, 2026.]

21.18.3.12 INGREDIENTS:

A. The name of each ingredient or collective term for the grouping of ingredients, when required to be listed, shall be the name as defined in the official definitions of feed ingredients as published in the official publication of the association of American feed control officials, the common or usual name, or one approved by the department.

B. The name of each ingredient must be shown in letters or type of the same size.

C. No reference to quality or grade of an ingredient shall appear in the ingredient statement of a feed.

D. The term "dehydrated" may precede the name of any product that has been artificially dried.

E. A single ingredient product defined by the association of American feed control officials is not required to have an ingredient statement.

F. Tentative definitions for ingredients shall not be used until adopted as official, unless no official definition exists or the ingredient has a common accepted name that requires no definition, (i.e. sugar) unless approved by the department.

G. When the word "iodized" is used in connection with a feed ingredient, the feed ingredient shall contain not less than 0.007% iodine, uniformly distributed.

[21.18.3.12 NMAC - Rp, 21.18.3.12 NMAC, October, 20, 2026.]

21.18.3.13 DIRECTIONS FOR USE AND PRECAUTIONARY STATEMENTS:

A. Directions for use and precautionary statements on the labeling of all commercial feeds and customer-formula feeds containing additives (including drugs, special purpose additives, or non-nutritive additives) shall:

(1) be adequate to enable safe and effective use for the intended purposes by users with no special knowledge of the purpose and use of such articles; and

(2) include, but not be limited to, all information described by all applicable regulations under the Federal Food, Drug and Cosmetic Act.

B. Adequate directions for use and precautionary statements are required for feeds containing non-protein nitrogen as specified in 21.18.3.14 NMAC.

C. Adequate directions for use and precautionary statements necessary for safe and effective use are required on commercial feeds distributed to supply particular dietary needs or for supplementing or fortifying the usual diet or ration with any vitamin, mineral, or other dietary nutrient or compound.

D. Raw milk distributed as commercial feed shall bear the following statement: "**WARNING: NOT FOR HUMAN CONSUMPTION - THIS PRODUCT HAS NOT BEEN PASTEURIZED AND MAY CONTAIN HARMFUL BACTERIA**." This statement shall be displayed in a conspicuous manner and shall not be smaller than the height of the minimum font required by the Federal Fair Packaging and Labeling Act for the quantity statement as shown in the following table:

Panel Size	Minimum Warning Statement Type Size
≤5 in.^{2}	1/16 in.
>5–≤25 in.^{2}	1/8 in.
>25–≤100 in.^{2}	3/16 in.
>100–≤400 in.^{2}	1/4 in.
>400 in.^{2}	1/2 in.

E. Distribution of raw milk for use as commercial feed for any species shall be decharacterized with food coloring approved by the Federal Food, Drug, and Cosmetic Act, according to 21 CFR §§ 73.1 et seq. and 21 CFR §§ 74.101 et seq. or in the case of raw milk labeled as organic, approved by the US Department of Agriculture;

(1) Not affect nutritive value;

(2) Matches the color on the Color Requirement card. Any person decharacterizing milk and milk products may obtain a Color Requirement card from the New Mexico department of agriculture.

F. Milk or milk products intended for commercial feed shall not be displayed, sold, or stored at premises where food is sold or prepared for human consumption, unless it meets Grade A standards or is decharacterized and properly labeled as required by 21.18.3.8 NMAC.

[21.18.3.13 NMAC - Rp, 21.18.3.13 NMAC, October, 20, 2026.]

21.18.3.14 NON-PROTEIN NITROGEN:

A. Urea and other non-protein nitrogen products defined in the official publication of the association of American feed control officials are acceptable ingredients only in commercial feeds for ruminant animals as a source of equivalent crude protein. If the commercial feed contains more than 8.75% of equivalent crude protein from all forms of non-protein nitrogen, added as such, or the equivalent crude protein from all forms of non-protein nitrogen, added as such, exceeds one third of the total crude protein, the label shall bear adequate directions for the safe use of feeds and a precautionary statement: "**CAUTION: USE AS DIRECTED**." The directions for use and the caution statement shall be in type of such size so placed on the label that they will be read and understood by ordinary persons under customary conditions of purchase and use.

B. Non-protein nitrogen ingredients defined in the official publication of the association of American feed control officials, when so indicated, are acceptable ingredients in commercial feeds distributed to non-ruminant animals as a source of nutrients other than equivalent crude protein. The maximum equivalent crude protein from non-protein nitrogen sources when used in non-ruminant rations shall not exceed one and one-quarter percent of the total daily ration.

C. On labels such as those for medicated feeds, which bear adequate feeding directions and warning statements, the presence of added non-protein nitrogen shall not require a duplication of the feeding directions or the

precautionary statements as long as those statements include sufficient information to ensure the safe and effective use of this product due to the presence of non-protein nitrogen.

D. Feeding or use directions for those feeds in which more than fifty percent of the protein content is derived from non-protein nitrogen sources should include recommendations as to providing adequate supplies of drinking water, sources of energy, forages being fed, minerals, adaptation ("warm-up") periods and stress conditions when necessary.

[21.18.3.14 NMAC - Rp, 21.18.3.14 NMAC, October, 20, 2026.]

21.18.3.15 DRUG AND FEED ADDITIVES:

A. Prior to approval of a registration application or approval of a label for commercial feed which contain additives (including drugs, other special purpose additives, or non-nutritive additives) the distributor may be required to submit evidence to prove the safety and efficacy of the commercial feed when used according to the directions furnished on the label.

B. Satisfactory evidence of safety and efficacy of a commercial feed may be:

(1) when the commercial feed contains such additives, the use of which conforms to the requirements of the applicable regulation in the "Code of Federal Regulations, Title 21", or which are "prior sanctioned" or "informal review sanctioned" or "generally recognized as safe" for such use; or

(2) when the commercial feed is itself a drug as defined in Section 76-19A-2I, NMSA 1978 and is generally recognized as safe and effective for the labeled use or is marketed subject to an application approved by the food and drug administration under Title 21 U.S.C. 360 b; or

(3) when one of the purposes for feeding a commercial feed is to impart immunity (that is to act through some immunological process) the constituents imparting immunity have been approved for the purpose through the Federal Virus, Serum and Toxins Act of 1913, as amended; or

(4) when the commercial feed is a direct fed microbial product and:

(a) the product meets the particular fermentation product definition; and

(b) the microbial content statement, as expressed in the labeling, is limited to the following: "contains a source of live (viable) naturally occurring microorganisms;" this statement shall appear on the label; and

(c) the source is stated with a corresponding guarantee expressed in accordance with Subsection G of 21.18.3.10 NMAC;

(5) when the commercial feed is an enzyme product and:

(a) the product meets the particular enzyme definition defined by the association of American feed control officials; and

(b) the enzyme is stated with a corresponding guarantee expressed in accordance with Subsection H of 21.18.3.10 NMAC.

[21.18.3.15 NMAC - Rp, 21.18.3.15 NMAC, October, 20, 2026.]

21.18.3.16 ADULTERANTS:

A. For the purpose of Section 76-19A-8A NMSA 1978, a commercial feed shall be deemed adulterated if:

(1) it bears or contains any added poisonous, deleterious, or non-nutritive substance that is unsafe within the meaning of Section 406 of the federal Food, Drug and Cosmetic Act, other than one that is a pesticide chemical in or on a raw agricultural commodity or a food additive;

(2) it is or it bears or contains any food additive that is unsafe pursuant to Section 409 of the federal Food, Drug and Cosmetic Act;

(3) it is a raw agricultural commodity and it bears or contains a pesticide chemical that is unsafe within the meaning of Section 408 (a) of the federal Food, Drug and Cosmetic Act; provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under Section 408 of that act and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling the residue of the pesticide chemical remaining in or on such processed commercial feed shall not be deemed unsafe if the residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of the residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of such processed feed will result or is likely to result in a pesticide residue in the edible product of the animal that is unsafe within the meaning of Section 408 (a) of the federal Food, Drug and

Cosmetic Act;

(4) it is or it bears or contains any color additive that is unsafe within the meaning of Section 721 of the federal Food, Drug and Cosmetic Act;

(5) it is or it bears or contains any new animal drug that is unsafe within the meaning of Section 512 of the federal Food, Drug and Cosmetic Act;

(6) it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for feed; or

(7) it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health; or

(8) it is, in whole or in part, the product of a diseased animal or of an animal that has died otherwise than by slaughter that is unsafe within the meaning of Section 402 (a)(1) or (2) of the federal Food, Drug and Cosmetic Act;

(9) its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or

(10) it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with the regulation or exemption in effect pursuant to Section 409 of the federal Food, Drug and Cosmetic Act;

B. For the purpose of Section 76-19A-8A NMSA 1978, the terms "poisonous or deleterious substances" include, but are not limited to, the following:

(1) Fluorine and any mineral or mineral mixture which is to be used directly for the feeding of domestic animals and in which the fluorine exceeds 0.20% for breeding and dairy cattle; 0.30% for slaughter cattle; 0.30% for sheep; 0.35% for lambs; 0.45% for swine; and 0.60% for poultry.

(2) Fluorine bearing ingredients when used in such amounts that they raise the fluorine content of the total ration (exclusive of roughage) above the following amounts: 0.004% for breeding and dairy cattle; 0.009% for slaughter cattle; 0.006% for sheep; 0.01% for lambs; 0.015% for swine, and 0.03% for poultry.

(3) Fluorine bearing ingredients incorporated in any feed that is fed directly to cattle, sheep or goats consuming roughage with or without limited amounts of grain that results in a daily fluorine intake in excess of 50 milligrams of fluorine per 100 pounds of body weight.

(4) Soybean meal, flakes, or pellets or other vegetable meals, flakes, or pellets which have been extracted with trichloroethylene or other chlorinated solvents.

(5) Sulfur dioxide, sulfurous acid, and salts of sulfurous acid when used in or on feeds or feed ingredients which are considered or reported to be a significant source of vitamin B1 (Thiamine).

(6) Raw leather residue from tanning or leather manufacturing.

C. All screenings or by-products of grains and seeds containing weed seeds, when used in commercial feed or sold as such to the ultimate consumer, shall be ground fine enough or otherwise treated to destroy the viability of such weed seeds so that the finished product complies with 21.18.4.8 NMAC concerning prohibited weed seeds per pound and 21.18.4.9 NMAC concerning viable restricted weed seeds per pound.
[21.18.3.16 NMAC - Rp, 21.18.3.16 NMAC, October, 20, 2026.]

21.18.3.17 GOOD MANUFACTURING PRACTICES: For the purposes of enforcement of Section 76-19A-8N NMSA 1978 the board adopts the following as current good manufacturing practices:

A. The regulations prescribing good manufacturing practices for type B and type C medicated feeds as published in the “Code of Federal Regulations, Title 21”, Part 225, Sections 225.1 through 225.202.

B. The regulations prescribing good manufacturing practices for type A Medicated Articles as published in the “Code of Federal Regulations, Title 21,” Part 226, Sections 226.1 through 226.115.
[21.18.3.17 NMAC - Rp, 21.18.3.17 NMAC, October, 20, 2026.]

21.18.3.18 CERTAIN MAMMALIAN PROTEINS PROHIBITED IN RUMINANT FEED:

A. Pursuant to Section 76-19A-8A or 76-19A-8C, NMSA 1978, the board adopts the requirements of “Code of Federal Regulations, Title 21”, 589.2000.

B. Pursuant to Section 76-19A-8A or 76-19A-8C, NMSA 1978, the board adopts the requirements of “Code of Federal Regulations, Title 21”, 589.2001.
[21.18.3.18 NMAC - Rp, 21.18.3.18 NMAC, October, 20, 2026.]

21.18.3.19 PET FOOD AND SPECIALTY PET FOOD LABEL FORMAT AND LABELING:

A. Pet food and specialty pet food shall be labeled with the following information:

(1) product name and brand name, if any, on the principal display panel as stipulated in 21.18.3.20 NMAC;

(2) a statement specifying the purpose of the products as stipulated in Subsection A of 21.18.3.21 NMAC;

(3) quantity statement, as defined in Subsection (1) of Section 76-19A-9A NMSA 1978 and Subsection H of 21.18.3.9 NMAC, by weight (pounds and ounces and metric), liquid measure (quarts, pints, and fluid ounces and metric), or by count on the principal display panel;

(4) pet Nutrition Facts or Specialty Pet Nutrition Facts as specified in 21.18.3.22 NMAC;

(5) ingredient statement as specified in Subsection A of 21.18.3.23 NMAC;

(6) feeding directions as required in 21.18.3.25 NMAC;

(7) name and address of the manufacturer or distributor as specified in 21.18.3.28 NMAC; and

(8) handling and Storage Instructions may be displayed as required in 21.18.3.29 NMAC.

B. When a pet food or specialty pet food enclosed in an outer container or wrapper is intended for retail sale, all required label information shall appear on the outer container or wrapper.

C. A vignette, graphic, or pictorial representation on a pet food or specialty pet food label shall not misrepresent the contents of the package.

D. The use of the word "proven" in connection with a label claim for a pet food or specialty pet food is not permitted unless the claim is substantiated by scientific or other empirical evidence.

E. No statement shall appear upon the label or labeling of a pet food or specialty pet food which makes false or misleading comparisons between that product and any other product.

F. A personal or commercial endorsement is permitted on a pet food or specialty pet food label provided the endorsement is not false or misleading.

G. A statement on a pet food or specialty pet food label stating "improved," "new," or similar designation shall be substantiated and limited to 6 months production.

H. A statement on a pet food or specialty pet food label stating preference or comparative attribute claims shall be substantiated and limited to 1 year production, after which the claim shall be removed or re-substantiated.

I. Raw milk distributed as pet food or specialty pet food shall bear the following statement “WARNING: NOT FOR HUMAN CONSUMPTION - THIS PRODUCT HAS NOT BEEN PASTEURIZED AND MAY CONTAIN HARMFUL BACTERIA.” This statement shall be displayed in a conspicuous manner and shall not be smaller than the height of the minimum font required by the Federal Fair Packaging and Labeling Act for the net quantity statement as shown in the following table:

Panel Size	**Minimum Warning Statement Type Size**
≤5 in.^{2}	1/16 in.
>5–≤25 in.^{2}	1/8 in.
>25–≤100 in.^{2}	3/16 in.
>100–≤400 in.^{2}	1/4 in.
>400 in.^{2}	1/2 in.

J. When pet food or specialty pet food consists of raw milk, the words, “Raw [blank] Milk” shall appear conspicuously on the principal display panel (blank is to be completed by using the species of animal from which the raw milk is collected).

[21.18.3.19 NMAC - Rp, 21.18.3.19 NMAC, October, 20, 2026.]

21.18.3.20 PET FOOD AND SPECIALTY PET FOOD BRAND AND PRODUCT NAMES:

A. The names of the ingredient(s) used in the brand or product name or elsewhere on the product label shall appear in order of predominance by weight in the product. Names of flavors due to their varying intensity can be in any order.

B. The words "100%" or "All" or words of similar designation shall not be used in the brand or product name of a pet food or specialty pet food if the product contains more than one ingredient, not including water sufficient for processing, decharacterizing agents, or trace amounts of preservatives and condiments.

C. An ingredient or a combination of ingredients may form a part of the product name of a pet food or specialty pet food:

(1) When the ingredient(s) constitutes at least ninety-five percent of the total weight of the product. Water sufficient for processing may be excluded when calculating the percentage; however, the ingredient(s) shall constitute at least seventy percent of the total product weight.

(2) When any ingredient(s) constitutes at least twenty-five percent of the weight of the product, provided that:

(a) water sufficient for processing may be excluded when calculating the percentage; however, the ingredients(s) shall constitute at least ten percent of the total product weight; and

(b) a descriptor is used with the ingredient name(s); this descriptor shall imply other ingredients are included in the product formula; examples of descriptors include "dinner," "platter," "entrée," "formula," and "recipe"; and

(c) the descriptor shall be in the same size, style, and color print as the ingredient name(s).

(3) When a combination of ingredients, which are included in the product name in accordance with Subsection B of 21.18.3.20 NMAC, meets all of the following:

(a) Each ingredient constitutes at least three percent of the product weight, excluding water sufficient for processing; and,

(b) All such ingredient names appear on the label in the same size, style, and color print.

D. When the name of any ingredient appears in the product name of a pet food, specialty pet food, or elsewhere on the product label and includes a descriptor such as "with" or similar designation, the named ingredient(s) must each constitute at least three percent of the product weight exclusive of water for processing. If the names of more than one ingredient are shown, they shall appear in their respective order of predominance by weight in the product. The three percent minimum level shall not apply to claims for nutrients such as, but not limited to, vitamins, minerals, and fatty acids as well as condiments. The word "with," or similar designation and named ingredients shall be in the same size, style, color, and case print and be of no greater size than:

Panel Size	**Maximum "with claim" Type Size**
< 5 sq. in.	1/8"
5-25 sq. in.	1/4"
25-100 sq. in	3/8"
100-400 sq. in	1/2"
400 sq. in +	1"

E. A flavor designation may be included as part of the product name or elsewhere on the label of a pet food or specialty pet food when the flavor designation meets all of the following:

(1) the flavor designation:

(a) conforms to the name of the ingredient as listed in the ingredient statement; or

(b) is identified by the source of the flavor in the ingredient statement; and

(2) the word "flavor" is printed in the same size type and with an equal degree of conspicuousness as the name of the flavor designation; and

(3) substantiation of the flavor designation, the flavor claim, or the ingredient source is provided upon request.

F. Contractions or coined names referring to ingredients shall not be used in the brand name of a pet food or specialty pet food unless it is in compliance with Subsections C, D or E of 21.18.3.20 NMAC.

G. Unless a pet food and specialty pet food is identified on the principal display panel as a stew, gravy, sauce, broth, aspic, juice, milk replacer, or other such name, the maximum moisture declared on a pet food or specialty pet food label shall not exceed seventy-eight percent or the natural moisture content of the ingredients, whichever is higher.

[21.18.3.20 NMAC - Rp, 21.18.3.20 NMAC, October, 20, 2026.]

21.18.3.21 PURPOSE STATEMENT AND NUTRITIONAL ADEQUACY CLAIMS:

A. A statement identifying the purpose of a pet food or specialty pet food is required on the principal display panel of the label in accordance with the following:

(1) The purpose of a pet food or specialty pet food shall be stated as:

(a) "Complete [Species] Food" – for food products intended to be the complete diet for all life stages and sizes of a pet or specialty pet in accordance with the unqualified claims in Subsection B of 21.18.3.21 NMAC;

(b) For food products intended to be the complete diet for a limited life stage or size of a pet or specialty pet in accordance with the qualified claims in Subsection C of 21.18.3.21 NMAC, one of the two following statements shall be used:

(i) Complete food for [blank] where the blank shall be filled with One or more of the following: 1) "adult [species];" 2) "puppies," "kittens," or "juvenile [species other than dog or cat];" 3) "puppies (<70 lb. As an adult);" 4) "dogs (except puppies >70 lb. As an adult)"; or

(ii) Complete [blank] food where the blank shall be filled with One or more of the following: 1)"adult [species];" 2) "puppy," "kitten," or "juvenile [species other than dog or cat];" 3) "puppy (<70 lb. As an adult);" or 4) "dog (except puppies >70 lb. As an adult)";

(c) Veterinary diet for [species] – for food products intended to be used under veterinary supervision only in accordance with regulation pf4(d);

(d) "[species] treat" – for food products for pets or specialty pets, provided occasionally for enjoyment, training, entertainment, or other purposes, and not generally intended or represented to be a complete food or nutritional supplement;

(e) "[species] food supplement" – for food products for pets or specialty pets that are intended to supply specific nutrient(s) or other food components but are not a complete diet;

(f) "[species] food mixer" – for food products for pets or specialty pets that are intended to top, accompany, or contribute to a complete diet but are not generally intended or represented to be a complete diet; or

(g) "daily [specialty pet species] food" – for food products that are intended to be the daily diet for specialty pets where no recognized nutritional authority exists. A limited life stage may be indicated, i.e., "daily [specialty pet species] food for [juveniles or adults]."

(2) This purpose statement shall:

(a) appear within the bottom thirty percent of the area of the label principal display panel in lines generally parallel to the base on which the package rests as it is designed to be displayed and shall be repeated on the alternate principal display panel, if present. However, on packages having a principal display panel of 5 square inches or less, the requirement for placement within the bottom thirty percent of the area of the label panel shall not apply;

(b) be at least as large as the statement of net quantity, consistent with 16 CFR 500.21;

(c) appear in the same color and style as the statement of net quantity and on the same background color as the statement of net quantity; and

(d) be separated by at least a space equal to the height of the letter "n" used in the statement of net quantity from other printed label
Information appearing above or below it and by at least a space equal to twice the width of the letter "n" of the style of type used in the quantity of contents statement from other printed label information appearing to the left or right of it.

B. The label of a pet food or specialty pet food which is intended for all life stages and sizes of the pet or specialty pet may make unqualified claims, directly or indirectly, such as "complete and balanced," "perfect," "scientific," or "100% nutritious" if at least one of the following apply:

(1) the product meets the nutrient requirements for all life stages and sizes Established by an Association of American feed control officials-recognized nutrient profile; or

(2) the product meets the criteria for all life stages as substantiated by completion of the appropriate Association of American feed control officials-recognized animal feeding protocol(s);

(a) unqualified claims of nutritional adequacy that include large size dogs (greater than 70 lb. As an adult) can be substantiated by completing the appropriate protocols using large size dogs; or

(b) can be substantiated by completing the appropriate protocols using dogs less than 70 lb. Adult weight while containing no more calcium and phosphorus than the maximum limits for large size dogs listed in the Association of American feed control officials dog food nutrient profiles; or

(3) the product is a member of a product family which is nutritionally similar to a lead product which contains a combination of ingredients that has been fed to a normal animal as the sole source of nourishment in accordance with the testing procedures established by Association of American feed control officials for all life stages, provided that:

(a) the nutritional similarity of the family product can be substantiated according to the procedures for establishing pet food product families developed by Association of American feed control officials; and

(b) the family product meets the criteria for all life stages; and

(c) under circumstances of reasonable doubt, the [state control official] may require the manufacturer to perform additional testing of the family product in order to substantiate the claim of nutritional adequacy.

C. The label of a pet food or specialty pet food which is intended for a limited purpose (such as size of dog) or a specific life stage, but not for all life stages and sizes, may make qualified claims, directly or indirectly, such as "complete and balanced," "perfect," "scientific," or "100% nutritious" when the product and claim meet both of the following:

(1) The claim is qualified with a statement of the limited purpose or specific life stage for which the product is intended or suitable, for example, "complete and balanced for puppies (or kittens)." The claim and the required qualification shall be juxtaposed on the same label panel and in the same size, style, and color print; and

(2) The product meets at least one of the following:

(a) the nutrient requirements for the limited purpose or specific life stage established by an Association of American feed control officials-recognized nutrient profile; or

(b) the criteria for a limited purpose or a specific life stage as substantiated by completion of the appropriate Association of American feed control officials-recognized animal feeding protocol(s);

(i) qualified claims of nutritional adequacy that include large size dogs can be substantiated by completing the appropriate protocols using large size dogs; or

(ii) can be substantiated by completing the appropriate protocols using dogs less than 70 lb. Adult weight while containing no more calcium and phosphorus than the maximum limits for large size dogs listed in the Association of American feed control officials dog food nutrient profiles; or

(c) the requirements of a product family which is nutritionally similar to a lead product which contains a combination of ingredients which, when fed for such limited purpose, will satisfy the nutrient requirements for such limited purpose and has had its capabilities in this regard demonstrated by adequate testing, and provided that:

(i) the nutritional similarity of the family product can be substantiated according to the procedures for establishing pet food product families developed by Association of American feed control officials; and

(ii) the family product meets the criteria for such limited purpose; and

(iii) under circumstances of reasonable doubt, the department may require the manufacturer to perform additional testing for the family product to substantiate the claim of nutritional adequacy.

D. A product intended for use by, or under the supervision or direction of, a veterinarian shall clearly indicate the nutritional adequacy of the product in accordance with regulation Subparagraph (f) of Paragraph (3) of Subsection A of 21.18.3.22 NMAC or Subparagraph (f) of Paragraph (2) of Subsection B of 21.18.3.22 NMAC as would be required for any other pet food or specialty pet food.

E. A signed affidavit attesting that the product meets the requirements of Subsection B of 21.18.3.21 NMAC or Subsection C of 21.18.3.21 NMAC shall be submitted to the upon request.

F. If the nutrient content of a product does not meet those nutrient requirements established by an Association of American feed control officials-recognized nutrient profile, or if no requirement has been established by an Association of American feed control officials-recognized nutritional authority for the life stage(s) of the intended species, the claimed nutritional adequacy of the product shall be scientifically substantiated.

G. The following Association of American feed control officials-recognized nutritional authority, nutrient profile, and/ or animal feeding protocol shall be acceptable as the basis for a claim of nutritional adequacy:

(1) As an Association of American feed control officials-recognized nutrient profile or nutritional authority:

(a) For dogs, the Association of American feed control officials dog food nutrient profiles;

(b) For cats, the Association of American feed control officials cat food nutrient profiles;

(c) For specialty pets, the nutrient recommendations approved by the committee on animal nutrition of the national research council of the national academy of sciences, provided that, this nutrient recommendation is recognized only for the specific specialty pet for which the profile is intended.

(2) As an Association of American feed control officials-recognized animal feeding protocol(s), the Association of American feed control officials dog and cat food feeding protocols.

H. When the label of a pet food or specialty pet food includes a comparison of the nutrient content of the food with levels established by an Association of American feed control officials-recognized nutrient profile such as a table of comparison, a percentage, or any other designation referring to an individual nutrient or all of the nutrient levels, the following apply;

(1) The product shall meet the Association of American feed control officials-recognized nutrient profile; and

(2) The statement of comparison shall be preceded by a statement that the product meets the Association of American feed control officials-recognized profile; however, the statement that the product meets the Association of American feed control officials-recognized nutrient profile is not required provided that the nutritional adequacy statement as per regulation Paragraph (1) of Subsection B of 21.18.3.21 NMAC or Subparagraph (a) of Paragraph (2) of Subsection C of 21.18.3.21 NMAC appears elsewhere on the product label; and

(3) The statement of comparison of the nutrient content shall constitute a guarantee and shall be in the nutrient guarantees within the pet or specialty pet nutrition facts; and

(4) The statement of comparison shall appear on the label separate and apart from the nutrient guarantees within the pet or specialty pet nutrition facts.

[21.18.3.21 NMAC - Rp, 21.18.3.21 NMAC, October, 20, 2026.]

21.18.3.22 PET AND SPECIALTY PET NUTRITION FACTS:

A. Pet Nutrition Facts shall be displayed in a prominent place on the label of all pet foods (including treats, food supplements, veterinary diets, and food mixers), but not necessarily on the principal display panel. The information shall be set off in a box by use of hairlines and shall be all black or one-color type, printed on a white or other neutral contrasting background so as to be clearly visible under the heading "Pet Nutrition Facts" that is centered in the top row of the box and twice the size of all other text in the box. A hairline rule that is centered between the lines of text shall separate "Pet Nutrition Facts" from the next line of text. The box contains the following required elements with all text the same size and style in the following order:

(1) **t**he stated whole familiar household unit (e.g., can, measuring cup, treat, or piece), consistent with the feeding directions, and its weight in grams shall be right justified. This is set off by a bold line centered between this and the next line of text.

(2) a statement of Calorie content, determined as specified in 21.18.3.26 NMAC shall include the following:

(a) the Calorie content of the product shall be stated after the left justified heading:

(i) "Calories per [familiar household unit]†: [#]" when the Calorie content is determined in accordance with Paragraph (1) of Subsection A of 21.18.3.26 NMAC or

(ii) "Calories per [familiar household unit] (fed): [#]" when the Calorie content is determined in accordance with 21.18.3.26(A)2 NMAC.

(b) Below the Calorie content statement, the number of Calories contributed by Protein, Fat, and Carbohydrate shall be declared, in that order, after "From:". The "From:" line shall be indented to reflect that it is a component of the total Calories on the line above. If the total Calorie content of the product is determined by feeding trial in accordance with 21.18.3.26(A)2 NMAC then "†" shall be declared immediately after the number of Calories from Carbohydrates. The determination of Calories from protein, fat, and carbohydrate are as described in Subsection C of 21.18.3.26 NMAC. This is set off by a bold line centered between this and the next line of text.

(3) The nutrient guarantees shall appear under the headers "Nutrients" that is left justified to the edge of the box, "Guaranteed" that is right justified to a vertical hairline that runs from this line of text to the last guaranteed nutrient value, and "per [familiar household unit]" that is right justified to the edge of the box. The amount "per [familiar household unit]" for each nutrient is determined by multiplying the guaranteed amount (concentration) by the number of grams in the familiar household unit and shall include the resultant unit of such amount (e.g., grams, milligrams, or international units). The guarantees shall be listed in the following order with a hairline centered between each line of text:

(a) A pet food label shall list the following required guaranteed amounts, stated as a maximum or minimum, as appropriate:

(i) "Protein" is minimum percentage of crude protein;

(ii) "Fat" is minimum percentage of crude fat;

(iii) "Total Carbohydrate†" is maximum percentage equal to [100 – (Crude Protein + Crude Fat + Moisture + Ash)];

(iv) "Dietary Fiber" is maximum percentage of total dietary fiber. The dietary fiber guarantee shall be indented to reflect that it is a component of the total carbohydrate guarantee on the line above;

(v) "Moisture" is maximum percentage of moisture; and

(vi) Maximum percentage of crude fat ("Fat") shall be listed between the minimum percentage of crude fat and the maximum percentage "Total Carbohydrate" if required by Regulation PF9;

(vii) additional required or voluntary guarantees shall follow moisture or ash, if listed.

(b) When "Ash" is listed, it shall be guaranteed as a maximum percentage and shall immediately follow moisture.

(c) When listed on the label of a dog or cat food product, guarantees for "Dietary Starch" and "Sugars" shall be stated as maximum guaranteed amounts. Neither guaranteed amount shall be listed without the other. The guaranteed amount for dietary starch shall follow dietary fiber with the same indentation. The guaranteed amount for sugars shall follow dietary starch with the same indentation.

(d) The "†calculated value" shall appear immediately after the last guarantee below a bold line.

(e) Other additional required or voluntary guarantees shall appear in accordance with the following:

(i) guarantees for nutrients are in the same order and units of the nutrients in the Association of American feed control officials Dog (or Cat) Food Nutrient Profiles following ash, if also listed, or moisture, if ash is not listed.

(ii) guarantees for substances not listed in the Association of American feed control officials Dog (or Cat) Food Nutrient Profiles, or not otherwise provided for in these Regulations, shall immediately follow the listing of the recognized nutrients and be accompanied by an asterisk. For any such guarantees, a hairline shall be centered between the last and the next line of text; the disclaimer "*not recognized as an essential nutrient by the association of American feed control officials Dog (or Cat) Food Nutrient Profiles" shall appear immediately after "†calculated value".

(f) The statement of nutritional adequacy shall appear immediately below the bold line separating it from the disclaimers which follow the guarantees:

(i) a statement that the dog or cat food meets the requirements of one or more of the recognized categories of nutritional adequacy: gestation/lactation, growth, maintenance, and all life stages. It shall be stated verbatim as one of the following: 1) (Name of product) is formulated to meet the nutritional levels established by the association of American feed control officials dog (or cat) food nutrient profiles for [blank]. (Blank is to be completed by using the stage or stages of the pet's life, such as gestation/ lactation, growth, maintenance, or the words "All Life Stages".) For a dog food, when the blank includes the words "Growth" or "All Life Stages," one of the following phrases must also be added verbatim to the end of the claim: "including growth of large size dogs (70 lb. or more as an adult)" if the product has been formulated to meet the levels of nutrients specifically referenced in the Dog Food Nutrient Profiles as being applicable to large size growing dogs. Or "except for growth of large size dogs (70 lb. or more as an adult)" if the product has not been formulated to meet the levels of nutrients specifically referenced in the Dog Food Nutrient Profiles as being applicable to large size growing dogs; or 2)"Animal feeding tests using association of American feed control officials procedures substantiate that (Name of Product) provides complete and balanced nutrition for [blank]." (Blank is to be completed by using the stage or

stages of the pet's life tested, such as, gestation/lactation, growth, maintenance, or the words "All Life Stages"); or 3) "(Name of Product) provides complete and balanced nutrition for [blank] (Blank is to be completed by using the stage or stages of the pet's life, such as gestation, lactation, growth, maintenance, or the words "All Life Stages") and is comparable in nutritional adequacy to a product which has been substantiated using association of American feed control officials feeding tests."

(ii) A nutritional or dietary statement for purposes other than those listed in Subsections B or C of 21.18.3.21 NMAC if the statement is scientifically substantiated; or

(iii) The statement: "This product is intended for intermittent or supplemental feeding only," if a product does not meet the requirements of Subsections of B or C of 21.18.3.21 NMAC or any other special nutritional or dietary need and so is suitable only for limited or intermittent or supplementary feeding.

B. Specialty Pet Nutrition Facts shall be displayed in a prominent place on the label of all specialty pet foods (including treats, food supplements, veterinary diets, and food mixers), but not necessarily on the principal display panel. The information shall be set off in a box by use of hairlines and shall be all black or one-color type, printed on a white or other neutral contrasting background so as to be clearly visible under the heading "Specialty Pet Nutrition Facts" that is centered in the top row of the box and twice the size of all other text in the box. A hairline rule that is centered between the lines of text shall separate "Specialty Pet Nutrition Facts" from the next line of text. The box contains the following required elements with all text the same size and style in the following order:

(1) The stated whole familiar household unit (e.g., can, measuring cup, treat, or piece), consistent with the feeding directions, and its weight in grams shall be right justified. This is set off by a bold line centered between this and the next line of text.

(2) The nutrient guarantees shall appear under the headers "Nutrients" that is left justified to the edge of the box, "Guaranteed" that is right justified to a vertical hairline that runs from this line of text to the last guaranteed nutrient values, and "per [familiar household unit]" that is right justified to the edge of the box. The amount "per [familiar household unit]" for each nutrient is determined by multiplying the guaranteed amount (concentration) by the number of grams in the familiar household unit and shall include the resultant unit of such amount (e.g., grams, milligrams, or international units). The guarantees shall be listed in the following order with a hairline centered between each line of text:

(a) A specialty pet food label shall list the following required guaranteed amounts, stated as a maximum or minimum, as appropriate:

(i) "Protein" is minimum percentage of crude protein;

(ii) "Fat" is minimum percentage of crude fat;

(iii) "Total Carbohydrate†" is maximum percentage equal to [100 – (Crude Protein + Crude Fat + Moisture + Ash)];

(iv) "Dietary Fiber" is maximum percentage of total dietary fiber. The dietary fiber guarantee shall be indented to reflect that it is a component of the total carbohydrate guarantee on the line above; and

(v) "Moisture" is maximum percentage of moisture;

(vi) additional required or voluntary guarantees shall follow moisture or ash, if listed.

(b) When "Ash" is listed, it shall be guaranteed as a maximum percentage and shall immediately follow moisture.

(c) When listed on the label of a specialty pet food product, guarantees for "Dietary Starch" and "Sugars" shall be stated as maximum guaranteed amounts. Neither guaranteed amount shall be listed without the other. The guaranteed amount for dietary starch shall follow dietary fiber with the same indentation. The guaranteed amount for sugars shall follow dietary starch with the same indentation.

(d) The "†calculated value" shall appear immediately after the last guarantee below a bold line.

(e) Other additional required or voluntary guarantees shall appear in accordance with the following:

(i) these guarantees shall follow ash, if also listed, or moisture, if ash is not listed;

(ii) guarantees for nutrients are in the same order and units of the nutrients in an association of American feed control officials-recognized nutrient profile for the intended animal species;

however, if no species-specific association of American feed control officials-recognized nutrient profile is available, the order and units shall follow the same order and units of nutrients in the association of American feed control officials cat food nutrient profile;

(iii) for those specialty pet species with an association of American feed control officials-recognized nutrient profile for the intended animal species, guarantees for substances not listed in that profile, or not otherwise provided for in these Regulations, shall immediately follow the listing of the recognized nutrients and be accompanied by an asterisk. For any such guarantees, a hairline shall be centered between the last and the next line of text. The disclaimer "*not recognized as an essential nutrient by the [blank]." (Blank is to be completed by listing the specific association of American feed control officials-recognized nutrient profile) shall appear immediately after the last such guaranteed amounts. No such disclaimer shall appear unless an association of American feed control officials-recognized nutrient profile is available for the specific species of specialty pet.

(f) The statement of nutritional adequacy shall appear immediately below the bold line separating it from the guarantees as one of the following:

(i) for daily foods for those specialty pet species where no recognized nutritional authority exists, the statement: "This product is intended to be a daily food."

(ii) for all other specialty pet foods: 1) A statement substantiating that the specialty pet food meets the requirements for nutritional adequacy in Subsections B or C of 21.18.3.21 NMAC by an association of American feed control officials-recognized nutritional authority. It shall be stated verbatim as the following: "(Name of product) is formulated to meet the nutritional levels established by [the association of American feed control officials-recognized authority] for [blank]." (Blank is to be completed by stating the species and the stage or stages of the specialty pet's life.); 2) A nutritional or dietary claim for purposes other than those listed in Subsections B or C of 21.18.3.21 NMAC if the claim is scientifically substantiated; or 3) the statement: "This product is intended for intermittent or supplemental feeding only," if a product is suitable only for limited or intermittent or supplementary feeding.

C. The "Pet Nutrition Facts" or "Specialty Pet Nutrition Facts" box of a pet food or a specialty pet food which is formulated as and represented to be a food supplement shall include all of the information required in Subsection A of 21.18.3.22 NMAC or Subsection B of 21.18.3.22 NMAC except that guarantees shall only be displayed on a per feeding unit (e.g., tablets, capsules, granules, or liquids) basis:

(1) for a food supplement that is intended to be a source of nutrients, guarantees shall appear for all nutrients that the product is intended to provide under the headers "Nutrients" that is left justified to the edge of the box and "per [feeding unit]" that is right justified to the edge of the box:

(a) for nutrients with an established requirement by an association of American feed control officials-recognized nutrient profile, minimum guarantees shall be declared in the same order and units (i.e., g, mg, or IU) specified in the association of American feed control officials-recognized nutrient profile for the intended species; or

(b) when no species-specific nutrient profile has been recognized by association of American feed control officials, minimum guarantees shall be declared in the same order and units (i.e., g, mg, or IU) specified in the association of American feed control officials cat food nutrient profiles; and

(c) guarantees for substances not listed in an association of American feed control officials-recognized nutrient profile for the intended animal species, or not otherwise provided for in these Regulations, shall immediately follow the listing of the recognized nutrients and be accompanied by an asterisk.

(i) For any such guarantees, a hairline shall be centered between the last and the next line of text;

(ii) the disclaimer "*not recognized as an essential nutrient by the [blank]." (Blank is to be completed by listing the specific association of American feed control officials-recognized nutrient profile) shall appear immediately after the last such guaranteed amounts. No such disclaimer shall appear unless an association of American feed control officials-recognized nutrient profile is available for the specific species of specialty pet.

(2) For a food supplement that is intended to supply microorganisms and/or enzymes, guarantees shall be declared as stipulated in Subsection G and/or H of 21.18.3.11 NMAC on a per feeding unit (e.g., tablets, capsules, granules, or liquids) basis. The enzyme activity unit meaning should follow the disclaimer within the box.

D. The sliding scale method of expressing a guaranteed amount on a pet food or specialty pet food label (for example, "Protein 15–18% Min") is prohibited.

E. Protein, fat, calculated total carbohydrate, or dietary fiber are not required when the pet food or specialty pet food is intended for purposes other than to furnish these substances or they are of minor significance relative to the primary purpose of the product, such as a mineral or vitamin supplement.

F. For small packages with a total printable area of more than 12 square inches and less than or equal to 40 square inches, all information required in Subsections A, B, or C of 21.18.3.22 NMAC shall appear, but may appear in a linear format. This information shall appear in one place without other intervening material. In the linear format, the required information shall:

(1) appear in the same order as required by Subsections A, B, or C of 21.18.3.22 NMAC but without the formatting described;

(2) text shall be all black or one-color type and all text shall be the same size and style, except that the heading "Pet Nutrition Facts" or "Specialty Pet Nutrition Facts" shall be bolded;

(3) the text shall be sufficiently large so as to be conspicuous and must not be smaller than 1/16 inch;

(4) the guaranteed amount shall appear immediately after the amount "per [familiar household unit]" for each nutrient with the guaranteed amount enclosed in parentheses and all units clearly identified;

(5) the following abbreviations may be used: Total Carbohydrate as "Carb†," Dietary Fiber as "Fiber".

G. For very small packages with a total printable area of less than or equal to 12 square inches, the information required elsewhere in 21.18.3.22 NMAC is not required to appear on the label. However, all information specified elsewhere in 21.18.3.22 NMAC for the particular product type shall be determined and shall be submitted to the department upon request. The following limited information is required to appear on the label:

(1) this information shall appear in one place without other intervening material;

(2) text shall be all black or one-color type and all text shall be the same size and style, except that the heading "Nutrition Facts" shall be bolded;

(3) the text shall be sufficiently large so as to be conspicuous and must not be smaller than 1/16 inch;

(4) for pet foods, only total calories are required and shall be stated as:

(a) "Cal (calc): [#]" when the Calorie content is determined in accordance with Paragraph (1) of Subsection A of 21.18.3.26 NMAC; or

(b) "Cal (fed): [#]" when the Calorie content is determined in accordance with Paragraph (2) of Subsection A of 21.18.3.26 NMAC.

(5) Guaranteed amounts shall be stated in weight per entire contents (e.g., grams per pouch). The following required guaranteed amounts stated as a maximum or minimum, as appropriate:

(a) "Protein" is crude protein;

(b) "Fat" is crude fat;

(c) "Carb" is calculated from [100 – (% Crude Protein + % Crude Fat + % Moisture + % Ash)];

(d) "Fiber" is total dietary fiber;

(e) "Moisture" is moisture; and

(f) additional required or voluntary guarantees shall follow moisture or ash, if listed, and shall comply with the requirements for such guarantees in Paragraph (3) of Subsection A of 21.18.3.22 NMAC or Paragraph (2) of Subsection B of 21.18.3.22 NMAC, as appropriate, except that they shall be stated in only in weight per entire contents.

[21.18.3.22 NMAC - Rp, 21.18.3.22 NMAC, October, 20, 2026.]

21.18.3.23 PET FOOD AND SPECIALTY PET FOOD INGREDIENTS:

A. Each ingredient of a pet food or specialty pet food shall be listed in the ingredient statement as follows:

(1) the names of all ingredients in the ingredient statement shall be shown in letters or type of the same size, style, and color, except where the defined name of the ingredient includes genus and species (e.g., microorganisms) which may be shown in italics;

(2) the ingredients shall be listed in descending order by their predominance by weight in non-quantitative terms, except if the ingredient is a vitamin and/or mineral premix, the premix may be declared in order of predominance by the name "vitamins" or "minerals," as appropriate, followed by a parenthetical listing of

all the vitamins and/or minerals in the premix, each in their order of predominance by weight as listed on the ingredient statement of the premix label;

(3) ingredients shall be listed and identified by the name established in the association of American feed control officials official Common or Usual Names and Definitions of Feed Ingredients, except any ingredient for which no association of American feed control officials ingredient name exists shall be identified by the common or usual name;

(4) any ingredient suitable for use in pet food or specialty pet food for which there is a codified standard of identity in Title 9 or 21 of the Code of Federal Regulations shall be declared in accordance with the applicable regulation, which includes the name of the standardized food followed by a parenthetical listing of its ingredients, if necessary, as provided in the regulation;

(5) the ingredients "meat," "poultry," "poultry by-products," or "meat by-products" shall be qualified to designate the animal from which the ingredients are derived unless the meat or meat by-products are derived from cattle, swine, sheep, goats, or any combination thereof or the poultry or poultry meal are derived from chickens, turkeys, ducks, geese, guineas, ratites, or squabs, or any combination thereof. For example, ingredients derived from deer shall be listed as "venison" or "venison by-products;"

(6) for ingredients consisting of fish, "fish meal," or "fish by-products," the name of the ingredient may include "fish" without further specification of the type of the fish or if it bears a name descriptive of its kind (e.g., "ocean whitefish" or by using the acceptable market name(s) or common name (but not any vernacular or slang names) of the individual fish species in the ingredient as established by the FDA Seafood List), it must correspond thereto; and

(7) for purposes of ingredient labeling of pet food or specialty pet food, the ingredient "sugar" shall refer to sucrose, which is obtained from sugar cane or sugar beets in accordance with the provisions in Title 21 of the Code of Federal Regulations. For all other labeling purposes outside the ingredient list, the term "sugar" shall be synonymous with "sugars" as defined in the Official Feed Terms.

B. Brand or trade names shall not be used in the ingredient statement.

C. Reference to quality or grade of an ingredient shall not appear in the ingredient statement.

D. If properly used as specified by the USDA National Organic Program (7 CFR Part 205), the term "organic" does not apply to Subsection C of 21.18.3.23 NMAC.

E. A reference to the nature, form, or other attribute of an ingredient shall be allowed in the ingredient statement when that attribute imparts a distinctive characteristic to the pet food or specialty pet food.

F. Any reference to the percentage of an ingredient or combination of ingredients, by symbol or word, in the brand or product name or elsewhere on a pet food or specialty pet food label, shall be based in relation to the total weight of all ingredients in the product.

(1) The names of the ingredient(s) shall appear in order of predominance by weight in the product, provided that names of flavors due to their varying intensity can be in any order.

(2) Where water sufficient for processing is excluded from the declared percentage, the exclusion of water shall be indicated in words juxtaposed to, the same style and color print, and at least one-half the print size of the stated percentage (e.g., "95% beef exclusive of water" or "95 percent chicken and liver exclusive of water").

[21.18.3.23 NMAC - Rp, 21.18.3.23 NMAC, October, 20, 2026.]

21.18.3.24 PET FOOD AND SPECIALTY PET FOOD DRUGS AND ADDITIVES:

A. An artificial color may be used in a pet food or specialty pet food only if it has been shown to be harmless to pets or specialty pets. The permanent or provisional listing of an artificial color in the United States Food and Drug regulations as safe for use, together with the conditions, limitations, and tolerances, if any, incorporated therein, shall be deemed to be satisfactory evidence that the color is, when used pursuant to such regulations, harmless to pets or specialty pets.

B. Evidence may be required to prove the safety and efficacy or utility of a pet food or specialty pet food which contains additives or drugs, when used according to directions furnished on the label. Satisfactory evidence of the safety and efficacy of a pet food or specialty pet food may be established:

(1) when the pet food or specialty pet food contains such additives, the use of which conforms to the requirements of the applicable regulation in the Code of Federal Regulations, Title 21, or which are "prior sanctioned" or "informal review sanctioned" or "Generally Recognized as Safe" for such use; or

(2) when the pet food or specialty pet food itself is a drug or contains a drug as defined in 76-19A-2I NMSA 1978 and is "generally recognized as safe and effective" for the labeled use or is marketed subject to an application approved by the Food and Drug Administration under Title 21, U.S.C. 360(b).

C. When a drug is included in a pet food or specialty pet food, the format required by 21.18.3.9 A(2) NMAC for labeling medicated feeds shall be used.

[21.18.3.24 NMAC - Rp, 21.18.3.24 NMAC, October, 20, 2026.]

21.18.3.25 PET FOOD AND SPECIALTY PET FOOD FEEDING DIRECTIONS:

A. All pet foods and specialty pet foods shall bear feeding directions consistent with the purpose statement on the principal display panel.

B. Dog or cat food, including treats and food mixers, labeled as complete and balanced for any or all life stages as provided in Subsection B of 21.18.3.21 NMAC or Subsection C of 21.18.3.21 NMAC, except those pet foods labeled in accordance with Subsection D of 21.18.3.21 NMAC, shall list feeding directions on the product label. These directions shall be expressed in common terms and shall appear prominently on the label. Feeding directions shall, at a minimum, include the amount of familiar household unit of product per weight of dog (or cat). The frequency of feeding shall also be specified.

C. Specialty pet food, including treats and food mixers, labeled as complete and balanced for any or all life stages as provided in Subsection B of 21.18.3.21 NMAC or Subsection C of 21.18.3.21NMAC or as a daily food, shall list feeding directions on the product label. These feeding directions shall be adequate to meet the feeding requirements of the intended species of specialty pet. These directions shall be expressed in common terms and shall appear prominently on the label. The frequency of feeding shall also be specified.

D. Food supplements shall list feeding directions on the product label that, at minimum, include the quantity of feeding unit (e.g., tablets, capsules, granules, or liquids) per weight of animal. The frequency of feeding shall also be specified.

E. When a pet food or specialty pet food is intended for use by or under the supervision or direction of a veterinarian, the statement: "Use only as directed by your veterinarian" may be used in lieu of feeding directions.

[21.18.3.25 NMAC - Rp, 21.18.3.25 NMAC, October, 20, 2026.]

21.18.3.26 DETERMINATION OF CALORIE CONTENT FOR PET FOODS:

A. The statement shall be determined in terms of metabolizable energy (ME) on an "as fed" moisture basis by one of the following methods then converted to Calories (kcal) per the familiar household unit (i.e., can, measuring cup, treat, or piece):

(1) By calculation (indicated with a "†"in the Pet Nutrition Facts) using the following "Modified Atwater" formula: ME (kcal/kg) = 10[(3.5 × CP) + (8.5 × CF) + (3.5 × NFE)], where ME = metabolizable energy, CP = % crude protein "as fed," CF = % crude fat "as fed," NFE = % nitrogen-free extract (carbohydrate) "as fed," and the percentages of CP and CF are the average values of these components in the product as determined by sound scientific methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product. The NFE is calculated as the difference between 100 and the sum of CP, CF, and the percentages of crude fiber, moisture, and ash (determined in the same manner as CP and CF); or

(2) in accordance with testing procedures determined by association of American feed control officials (indicated as "(fed)" in the Pet Nutrition Facts).

B. An affidavit shall be provided upon the request of the department substantiating that the Calorie content was determined by:

(1) Paragraph (1) of Subsection A of 21.18.3.26 NMAC in which case the summary data used in the calculation shall be included in the affidavit; or

(2) Paragraph (2) of Subsection A of 21.18.3.26 NMAC in which case the summary data used in the determination of Calorie content shall accompany the affidavit.

C. The Calories from protein, fat, and carbohydrate as required in the Pet Nutrition Facts are determined using the following calculation, then converted to Calories (kcal) per the familiar household unit (i.e., can, measuring cup, treat, or piece):

(1) Protein: ME (kcal/kg) = 10(3.5 × CP), where ME = metabolizable energy, CP = % crude protein "as fed" and the percentage of CP is the average value in the product as determined by sound scientific

methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product.

(2) Fat: ME (kcal/kg) = 10(8.5 × CF), where ME = metabolizable energy, CF = % crude fat "as fed" and the percentage of CF is the average value in the product as determined by sound scientific methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product.

(3) Carbohydrate: ME (kcal/kg) = 10(3.5 × NFE), where ME = metabolizable energy, NFE is calculated as the difference between 100 and the sum of CP, CF, and the percentages of crude fiber, moisture, and ash; CP = % crude protein "as fed," CF = % crude fat "as fed" and the percentages are the average values of these components in the product as determined by sound scientific methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product.

D. Comparative claims shall not be false, misleading, or given undue emphasis and shall be based on the same methodology for the products compared.

[21.18.3.26 NMAC - Rp, 21.18.3.26 NMAC, October, 20, 2026.]

21.18.3.27 PET FOOD AND SPECIALTY PET FOOD DESCRIPTIVE TERMS:

A. Calorie terms

(1) "Light"

(a) A dog food product which bears on its label the terms "light," "lite," "low calorie," or words of similar designation shall:

(i) contain no more than 3100 kcal ME/kg for products containing less than 20% moisture, no more than 2500 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 900 kcal ME/kg for products containing 65% or more moisture; and

(ii) include on the label feeding directions which reflect a reduction in calorie intake consistent with the purpose.

(b) A cat food product which bears on its label the terms "light," "lite," "low calorie," or words of similar designation shall:

(i) contain no more than 3250 kcal ME/kg for products containing less than 20% moisture, no more than 2650 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 950 kcal ME/kg for products containing 65% or more moisture; and

(ii) include on the label feeding directions which reflect a reduction in calorie intake consistent with the purpose.

(2) "Less" or "reduced calories"

(a) A dog or cat food product which bears on its label a claim of "less calories," reduced calories," or words of similar designation shall include on the label:

(i) the name of the product of comparison and the percentage of calorie reduction (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears; and

(ii) the comparative statement printed in type of the same color and style and at least one-half the type size used in the claim; and

(iii) feeding directions which reflect a reduction in calories compared to feeding directions for the product of comparison.

(b) A comparison between products in different categories of moisture content (i.e., less than 20%, 20% or more but less than 65%, 65% or more) is misleading.

B. Fat terms

(1) "Lean"

(a) A dog food product which bears on its label the terms "lean," "low fat," or words of similar designation shall:

(i) contain no more than 9% crude fat for products containing less than 20% moisture, no more than 7% crude fat for products containing 20% or more but less than 65% moisture, and no more than 4% crude fat for products containing 65% or more moisture;

(ii) include on the product label in the guaranteed analysis: 1) A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in Paragraph (3) of Subsection A of 21.18.3.22; and 2) A maximum crude fat guarantee which is no more than 9% crude fat for products containing less than 20% moisture, no more than 7%

crude fat for products containing 20% or more but less than 65% moisture, and no more than 4% crude fat for products containing 65% or more moisture.

(b) A cat food product which bears on its label the terms "lean," "low fat," or words of similar designation shall:

(i) contain a maximum percentage of crude fat which is no more than 10% crude fat for products containing less than 20% moisture, no more than 8% crude fat for products containing 20% or more but less than 65% moisture, and no more than 5% crude fat for products containing 65% or more moisture; and

(ii) include on the product label in the guaranteed analysis: 1) A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in Paragraph (3) of Subsection A of 21.18.3.22 NMAC; and 2) A maximum crude fat guarantee which is no more than 10% crude fat for products containing less than 20% moisture, no more than 8% crude fat for products containing 20% or more but less than 65% moisture, and no more than 5% crude fat for products containing 65% or more moisture.

(2) "Less" or "reduced fat"

(a) A dog or cat food product which bears on its label a claim of "less fat," "reduced fat," or words of similar designation, shall include on the label:

(i) the name of the product of comparison and the percentage of fat reduction (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears; and

(ii) the comparative statement printed in type of the same color and style and at least one-half the type size used in the claim; and

(iii) a maximum crude fat guarantee in the guaranteed analysis immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in Paragraph (1) of Subsection A of 21.18.3.21 NMAC.

(b) A comparison on the label between products in different categories of moisture content (i.e., less than 20%, 20% or more but less than 65%, 65% or more) is misleading.

C. Carbohydrate Terms

(1) “Low” Carbohydrate, Dietary Starch, and Sugars Claims. A claim of “low carbohydrates,” “low dietary starch,” “low sugars” (or a combination thereof) is not allowed.

(2) “Less” or “Reduced” Carbohydrates, Dietary Starch, and Sugars claims.

(a) A dog or cat food product that bears on its label a claim of “less” or “reduced [blank]” (blank is to be completed by using “carbohydrates,” “dietary starch,” or “sugars”), or words of similar designation, shall include on the label:

(i) The name of the product of comparison and the percentage of reduction in total dietary starch plus sugars (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears; and

(ii) the comparative statement printed in type of the same color and style and not less than one-half the size used in the claim; and

(iii) maximum guarantees for dietary starch and sugars as stated in Paragraph (3) of Subsection A of 21.18.3.22 NMAC.

(b) A comparison between products in different categories of moisture content (i.e., less than 20%, 20% or more but less than 65%, 65% or more) is misleading.

[21.18.3.27 NMAC - Rp, 21.18.3.27 NMAC, October, 20, 2026.]

21.18.3.28 PET FOOD AND SPECIALTY PET FOOD MANUFACTURER OR DISTRIBUTOR; NAME AND ADDRESS:

A. The label of a pet food or specialty pet food shall specify the business or corporate name and address of the manufacturer or distributor. This information shall appear under the header “Manufactured for (blank),” “Distributed by (blank),” or any other wording that expresses the facts, if the business whose name appears on the label is not the manufacturer. The statement of the place of business shall include the street address, city, state, and zip code; however, the street address may be omitted if such street address is shown in a readily accessible, widely published, and publicly available resource, including but not limited to a printed directory, electronic database, or website.

B. When a person manufactures or distributes a pet food or specialty pet food in a place other than the principal place of business, the label may state the principal place of business in lieu of the actual place where

each package of such pet food or specialty pet food was manufactured or packaged or from where each package is to be distributed.
[21.18.3.28 NMAC - Rp, 21.18.3.28 NMAC, October, 20, 2026.]

21.18.3.29 HANDLING AND STORAGE INSTRUCTIONS:

A. A product which bears handling and storage instructions shall display such instructions under the bolded header "Handling and Storage Instructions:" that is separate and distinct from any feeding directions. A header is not required for small packages with a total printable area less than 40 square inches. If any graphics are used to support handling and storage instructions, only the following graphics may be included, with the handling and storage instructions section, as applicable. The graphics with color and accompanying text shall be obtained from the association of American feed control officials website.



B. The handling and storage instructions, if present, shall be displayed in a conspicuous manner so to render them likely to be read under typical conditions of use. Any use of the handling and storage instructions graphics shall be no smaller than:

Panel Size	Minimum Graphic Size (top of circle to bottom of text)
≤40 in.^{2}	1/2 in.
>40 – ≤100 in.^{2}	1 in.
>100 – ≤400 in.^{2}	1 3/4 in.
>400 in.^{2}	2 in.

[21.18.3.29 NMAC - N, October, 20, 2026.]

21.18.3.30 REGISTRATION EXPIRATION DATE: For the purpose of Section 76-19A-4A, NMSA 1978, all registrations shall expire annually on December 31.
[21.18.3.30 NMAC - Rp, 21.18.3.29 NMAC, October, 20, 2026.]

21.18.3.31 INSPECTION FEES:

A. An inspection fee of twenty cents ($0.25) per ton is hereby established to be effective on all commercial feeds sold; except that feed for which the department has not developed an inspection service at this time.

B. An inspection fee of twenty-five dollars ($25.00) is hereby established for each brand of commercial feed distributed in individual packages of ten (10) pounds or less sold in New Mexico.
[21.18.3.31 NMAC - Rp, 21.18.3.30 NMAC, October, 20, 2026.]

21.18.3.32 SPAY AND NEUTER PROGRAM FEE:

A. Additional Fees.

In addition to the commercial feed registration fee, an additional annual spay and neuter program fee of one hundred dollars ($100.00) shall be collected on each pet food registered with the department.

B. Exemptions

(1) A pet food manufacturer shall be exempt of the spay and neuter program fees upon submission of a notarized affidavit attesting that tax-year annual gross revenue from the distribution of pet food is no more than three million dollars. The spay and neuter program fee exemption affidavit shall be submitted to the department on a form furnished by the department.

(2) A pet food manufacturer shall be exempt of the spay and neuter program fees for a specific product upon submission of a notarized affidavit attesting that the specific product meets the definition of prescription diet. The spay and neuter program fee exemption affidavit shall be submitted to the department on a form furnished by the department.

C. Distribution, ninety-six percent of this additional fee collected shall be deposited with the state treasurer to credit the statewide spay and neuter subaccount of the animal care and facility fund. Four percent of this additional fee collected shall be distributed to the department to administer New Mexico Commercial Feed Act.
[21.18.3.32 NMAC - Rp, 21.18.3.31 NMAC, October, 20, 2026.]

HISTORY OF 21.18.3 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 73-2, Regulatory Order No. 4, Feed Regulations, filed 5/15/1973.
NMDA Rule 73-3, Regulatory Order No. 5, Commercial Feed Regulations, filed 5/15/1973.
NMDA Rule 73-3, Amendment No. 1, Regulatory Order No. 8, Commercial Feed Exemptions, filed 7/1/1976.
NMDA Rule 73-10, Regulatory Order No. 6, filed 11/27/1973.
NMDA Rule 76-5, Regulatory Order No. 7, Feed Inspection Fees, filed 9/28/1976.
NMDA Rule 84-2, Additional Requirements for Liquid Feed Labeling, filed 10/23/1984.

History of Repealed Material:
21.18.3 NMAC - Commercial Feeds, filed 05/12/2009 - Duration expired effective 9/30/2013.
21.18.3 NMAC - Commercial Feeds, filed 9/30/2013 was repealed and replaced by 21.18.3 NMAC – Commercial Feeds, effective October, 20, 2026.

Exhibit 3

Commercial Feeds — NMAC 21.18.3 Public Comments

Name: Sage Saffran

Email: ssaffran@nmpf.org
Submitted on: August 6, 2026, 4:33 PM

Comments: New Mexico Department of Agriculture
1050 Stewart Street Las Cruces, NM 88003

To Whom It May Concern,
The National Milk Producers Federation (NMPF) supports amendment to the New Mexico Administrative Code (NMAC) 21.18.3 for Commercial Feeds which would add further warning labels to raw milk being sold as pet food and add approved food coloring to clearly identify the product. Consumption of raw milk and raw milk products has been opposed by every major health organization in the United States, including the American Medical Association and the American Academy of Pediatrics. Multiple studies support the findings that state laws increasing the availability of raw milk are associated with more outbreak-associated illnesses.

Consumption of raw milk and raw milk products is a demonstrated public health risk. The link between raw milk and foodborne illness has been well-documented in the scientific literature, with evidence spanning nearly 100 years. Raw milk is a key vehicle in the transmission of dangerous and sometimes deadly human pathogens, including E. coli O157:H7, Campylobacter, Listeria monocytogenes, and Salmonella.

Raw milk being sold as pet food, does not deter consumers from purchasing for their own consumption. From 2000-2020 there were 13 outbreaks across the eight states where there is a complete ban on raw milk sales for human consumption but permit pet dairy food sales with special labeling. This emphasizes the need for further distinction between raw milk for pet food and raw milk for human consumption. The Centers for Disease Control and Prevention (CDC) and the Food and Drug Administration (FDA) do not support the sale or consumption of raw milk. Detering the sale of raw milk in New Mexico decreases the risk to public health and protects the state's consumers to the inevitable consequences of falling victim to foodborne illness. No matter how carefully it is produced, raw milk is inherently dangerous. Americans have become ill after consuming raw milk and raw milk products obtained from farms of varying sizes, from cow-share programs, and from licensed, permitted or certified raw milk producers.

Based on a study which analyzed Foodborne Disease Outbreak Surveillance System data from 2013-2018, it was found that jurisdictions where unpasteurized milk sales were allowed were estimated to have 3.2 times more outbreaks and 2.9 times more outbreak-associated illnesses compared with jurisdictions where retail sales were prohibited. Of the 74 single-state outbreaks, 78% occurred in states where the sale of unpasteurized milk was expressly allowed in retail stores, at farmers markets or on the farm where it was produced. Based on data collected between 2009 and 2014, researchers concluded that unpasteurized milk is 840 times more likely to cause food-borne illness than pasteurized milk, and such illnesses have a hospitalization rate 45 times higher than those involving pasteurized dairy products.

Alarmingly, nearly two-thirds of all outbreaks associated with raw milk or raw milk products involve children. The list below is just a handful of the outbreaks that have involved children-

Last year, 21 people, six of which who were under the age of 10, were sickened by E. coli and Campylobacter bacteria after consuming raw milk in Florida. Of those 21 cases, seven were hospitalized.

In October 2023, a Salmonella Typhimurium outbreak sourced to a dairy farm selling raw dairy products in California sickened 171 people. Of the 171 cases, 120 (70%) cases and 18 (82%) of the cases requiring hospitalization were among children and adolescents aged <18 years.

In 2023, outbreaks in Wyoming, Minnesota and Utah all involved children getting sick from E. coli, Campylobacter or Cryptosporidium parvum after drinking raw milk.

In 2022, two 10-month-old infants in Tennessee were infected with shiga toxin-producing Escherichia coli linked to raw milk consumption. The herd where the milk was obtained included 7-10 cows being hand-milked. Health department staff upon completing a site visit observed possible fecal contamination during milking and possible milk storage at higher than recommended temperatures. One infected infant developed hemolytic uremic syndrome (HUS) requiring hemodialysis and hospitalization for 27 days.

In 2018, a dozen Tennessee children experienced an E. coli outbreak with four developing kidney failure. Several of those children spent more than 50 days in the intensive care unit at Tennessee Children's Hospital.

In 2011, five children in California were infected with E. coli O157:H7 after drinking raw milk; three of whom required hospitalization after developing HUS.

It is the responsibility of New Mexico's leaders to make decisions to protect the health of the public, most especially those who are minors and are unable to make fully informed decisions that could have profound consequences on the rest of their lives. The updates to NMAC 21.18.3 would do that.

One critical aspect of this high-profile issue is the tremendous amount of misinformation that has been disseminated regarding the supposed health benefits of raw milk. It is important to emphasize that no claim related to the health benefits of consuming raw milk has been substantiated in any of the medical literature. The scientific consensus is that raw milk can cause serious illnesses and hospitalizations, as well as result in life-long negative health complications and death.

Another misleading claim is that testing or regulating the sale of raw milk will protect consumers from the risks of raw milk consumption. This is also unfounded. Product testing and no amount of added procedures on-farm can ensure the same level of safety as pasteurization. A sample of a farm's raw milk may come back negative for all bacteria one day and the next sample might be positive. Expanding opportunities for the sale of raw milk sends a signal to consumers that drinking unpasteurized milk is safe when, in fact, the opposite is true.

Nationally, our dairy industry benefits from a very high degree of consumer confidence - confidence built in large part on the excellent food safety record of milk and dairy products. Current statistics estimate only 1-2% of reported foodborne illness outbreaks are attributed to dairy products. However, of those, over 70% have been attributed to raw milk and inappropriately-aged raw milk cheeses. In a 2007 report, the CDC concluded that "State milk regulations and methods for their enforcement should be reviewed and strengthened to minimize hazards of raw milk."

Supporting the sale of raw milk would be a step in the wrong direction and create unnecessary food safety risks for consumers and liability for dairy producers.

While choice is an important value, it should not pre-empt consumers' well-being. To support the sale of raw milk and raw milk products is an unnecessary risk to consumer safety and public health. As such, we support any changes that create a clear distinction between raw milk for pet food and raw milk for human consumption.

Please do not hesitate to contact us with any questions or if we may be of further assistance.

Sincerely,

Sage Saffran
Senior Manager, Special Projects and Strategic Initiatives
National Milk Producers Federation

Please reach out if you have any questions about our sources.

Hearing Transcript - August 4, 2026

New Mexico Department of Agriculture (NMDA) Hearing
For Proposed Rulemaking

No.

Moderated by Tim Darden
Tuesday, August 4, 2026
1:00 p.m.

Remote Proceeding
Gerald Thomas Hall Auditorium
940 College Drive, Room 194
Las Cruces, NM 88003

Reported by: Ryan Auten
JOB NO: 8298513

A P P E A R A N C E S

List of Attendees:

Tim Darden, Divisional Director

Katie Laney, Division Director, Agriculture Production Services

Tony Marquez, Director of Information Technology

Bryan Williams

K. Schomacker

Megan D.

Paul Frankforther

P R O C E E D I N G S

MR. DARDEN: Good afternoon. At this time, we will start the hearing that addresses the proposed repeal and replacement of the Commercial Feeds Rule Title 21, Chapter 18, Part 3 of the New Mexico Administrative Code.

My name is Tim Darden and I'm a division director with 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 commercial feeds rule were made available in strikethrough version and in clean copy form as you walked in. If you require a copy, please hold your hand up and one will be provided to you. For our virtual participants, electronic copies are available on the department's website at nmdeptag.nmsu.edu. The day and date is Tuesday, August 4, 2026, and the time is 1:00 p.m.

This hearing is being held in person and virtually in New Mexico State University's Gerald Thomas Hall Auditorium, located at 940 College Drive, Las Cruces, New Mexico. This is the published date,

time, and location for this hearing. This hearing is being recorded and either a transcript of today's hearing or the recording will be available from the department's webpage. Following a summary of the proposed primary amendments, the public will be provided an opportunity to provide testimony regarding the proposed amendments.

Ms. Laney will now provide a summary of the public notices, primary proposed amendments to the commercial feeds rule, and any related information.

MS. LANEY: Thank you.

Good afternoon. I'm Katie Laney, an assistant division director with New Mexico Department of Agriculture. The Commercial Feeds Rule was promulgated under the authority of the New Mexico Commercial Feed Act to protect the consumers of commercial feed products by establishing standards for their labeling, registration, and sale.

Public notice for this hearing were published as followed and in accordance with state law: on June 23, 2026 in the New Mexico Registrar; June 23, 2026 in the Albuquerque Journal; June 23, 2026 in the Santa Fe New Mexican in Spanish and English; and June 23, 2026 in the Las Cruces Sun News. Hearing notices were posted on the New Mexico Sunshine

Portal and on the New Mexico Department of Agriculture's webpage in Spanish and English. Copies of the proposed rule were made available at the New Mexico Department of Agriculture's Las Cruces main office and on the department's website.

Notification and the proposed rule were sent to the New Mexico Economic Developments - Small Business Regulatory Advisory Commission and to the Legislative Council Service. As of today, New Mexico Department of Agriculture has not received findings from either. Notice of Public Hearing was sent to all current commercial feed registrants.

The proposed rule repeals and replace -- repeals and replaces the existing commercial feed rule to establish modernized regulatory framework that is more consistent with the current industry standards and more closely aligns with nationally recognized model regulations developed by the Association of American Feed Control Officials.

Aligning New Mexico's regulations with these nationally recognized standards will promote greater consistency in the administration and enforcement of the Commercial Feed Act, facilitate compliance with applicable state and federal labeling requirements, reduce unnecessary regulatory burden on

regulated entities, and support the efficient interstate distribution of commercial feed and pet food products while maintaining appropriate consumer and animal health protections.

The existing commercial feed rule was promulgated under earlier industry standards and no longer adequately reflects the terminology, labeling requirements, product classifications, or regulatory practices currently recognized within the commercial feed and companion animal food industries. Since adoption of the existing rule, the marketplace has evolved considerably, including the widespread introduction of specialty nutrition products and companion animal food marketed with increasingly detailed nutritional ingredients and marketing claims.

The proposed rule incorporates updated definitions, labeling standards, and regulatory provisions that better align with current industry practices, nationally recognized models, and promote consistent interpretation and enforcement of the Commercial Feed Act, provides greater regulatory -- provides certainty to regulated entities, and ensures that the commercial feed and pet food products distributed within New Mexico are accurately labeled in a matter that protects

purchasers, consumers, and animal health.

Some of the areas of significant change include the following. Section 21.18.3.7, "Definitions," is amended to add new definitions for terms including daily food, familiar household unit, food mixers, food supplements, pet nutritional facts, specialty pet nutritional facts, dietary, veterinarian diet, and raw milk. These new definitions modernize the terminologies used throughout the rule and provide the regulatory foundation necessary to implement the updated pet food labeling requirements.

Section 21.18.3.13, "Directions for Use and Precautionary Statements," is amended to establish specific requirements for raw milk products distributed as commercial feed. Under the proposed amendments, raw milk products must include the following warning statement: "Warning, not for human consumption. This product has not been pasteurized and may contain harmful bacteria."

The amendments establish minimum font size requirements for this warning statement based on the size of the label panel to ensure the warning is clear and conspicuous. Additional provisions require raw milk distributed as commercial feed to be decharacterized using an approved coloring agent and

prohibit the display or storage of raw milk commercial feed in areas where human consumption -- food for human consumption is sold or prepared unless specific provisions are met. These amendments strengthen product identification requirements and provide additional public health protections related to raw milk commercial feed products.

Section 21.18.3.19, "Pet Food and Specialty Pet Food Labeling Format and Labeling," contains some of the most significant revisions in the proposed rule. The amendments substantially revise and reorganize pet food and specialty pet food labeling requirements. The revised section establishes a new pet nutrition facts and specialty pet nutritional facts labeling framework modeled after the nutritional labeling concept familiar to consumers through human food products.

These amendments expand required labeling information and establish formatting requirements for elements such as type, size, placement, spacing, indentation, and overall label visibility. The revised section also establishes specific labeling requirements for raw milk pet food products, including required warning statements, identifications of the species from which the raw milk

was obtained.

Section 21.18.3.21, "Pet Food and Specialty Pet Food Purpose Statements and Nutritional Adequacy," is amended to comprehensively revise nutritional adequacy requirements for pet food and specialty pet food products. The revised section establishes more detailed purpose statement requirements based on product categories and intended use, providing greater consistency in how products are represented and labeled.

Section 21.18.3.22, "Pet Food and Specialty Pet Nutritional Facts," creates a new nutritional disclosure framework for pet food and specialty pet food products. The current rule primarily relies on traditional guaranteed analysis statements. The proposed amendments transition to a more comprehensive pet nutrition facts and specialty pet nutrition facts format that provides additional nutrition information to consumers in a standardized, recognized format.

Section 21.18.3.23, "Pet Food and Specialty Pet Food Ingredients," updates ingredient declarations requirements by incorporating current AAFCO ingredient definitions and FDA recognized ingredient naming conventions. These updates improve

consistency and labeling and provide greater clarity for manufacturers and consumers.

Section 21.18.3.25, "Pet Food and Specialty Pet Food Feeding Directions," expands feeding direction requirements for pet food and specialty pet food products. Under the proposed amendments, feeding directions must use familiar household units such as cups, cans, treats, tablets, or pieces to make feeding instructions easier for consumers to understand and follow. The amendments also establish additional requirements for feeding frequency, serving size, and product formulated for specialized nutritional purposes.

Section 21.18.3.26, "Determination of Caloric Content for Pet Foods," establishes requirements for the determination and disclosure of calorie content for pet food and specialty pet food products. This section supports the transition from traditional guaranteed analysis labeling towards a more comprehensive nutritional disclosure approach.

And Section 21.18.3.29, "Handling and Storage Instructions," is a new section that establishes handling and storage instruction requirements for pet food and specialty pet food products. These requirements improve consumers -- I'm

sorry. These requirements provide consumers with additional information necessary to safely store and handle products after purchase.

MR. DARDEN: Okay. Thank you, Ms. Laney.

New Mexico Department of Agriculture has received no written comments prior to this hearing. We will now open the floor for comments. Please begin by stating your name and affiliation for the record. Please raise your hand and wait until I call on you. At this time, I will begin accepting comments. Please restrict your comments to the proposed content of the rule.

We will now accept comments from virtual participants. Please use the "raise your hand" function, and I will call on you. Please remember to state your name and affiliation for the record.

Give it a second. Nada.

Is there anyone else wishing to comment?

Seeing none, we will close the public oral comment period for this hearing. Written comments will be accepted until 5:00 p.m. Thursday, August 6, 2026. All public comments will be presented

to the Secretary/Director of New Mexico Department of Agriculture [sic], Mr. Jeff Witte, and will be submitted for consideration to New Mexico State University Board of Regents.

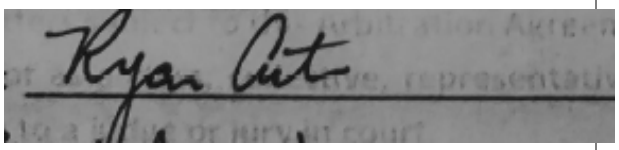
Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's webpage.

Thank you all for participating. We will close the hearing at 1:14 p.m. Thank you.

(Whereupon, at 1:14 p.m., the proceeding was concluded.)

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.



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

CERTIFICATE OF TRANSCRIBER

I, SARA MCVEY, 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.



SARA MCVEY

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Hearing Transcript - August 6, 2026

New Mexico Department of Agriculture

21.18.3 Commercial Feeds Rule Hearing

Moderated by Tim Darden, Division Director

Thursday, August 6, 2026

1:00 p.m.

Central New Mexico Community College Workforce Training Center

5600 Eagle Rock Avenue Northeast

Albuquerque, NM 87113

Reported by: James Cogswell

JOB NO: 8298544

A P P E A R A N C E S

List of Attendees:

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

Tim Darden, Division Director, New Mexico Department of Agriculture

Nathan Abrahamson, New Mexico Department of Agriculture

Maria Rocha-Hall, New Mexico Department of Agriculture

Candie Sweetser, New Mexico Department of Agriculture

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

P R O C E E D I N G S

MR. DARDEN: Good afternoon. At this time, we will start the hearing that addresses the proposed repeal and replacement of the Commercial Feeds Rule, Title 21, Chapter 18, Part 3 of the New Mexico Administrative Code. My name is Tim Darden. I am a division 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 Commercial Feeds Rule were made available in strike-through version and in clean copy form as you walked in.

If you require a copy, please hold up your hand and one will be provided to you. The day and date is Thursday, August 6, 2026, and the time is approximately 1 p.m. This hearing is being held in person at the CNM Workforce Training Center located at 5600 Eagle Rock Avenue, Albuquerque, New Mexico.

This is the published date, time, and location for this hearing. This hearing is being recorded and either a transcript of today's hearing or the recording will be available from the department's

webpage.

Following a summary of the proposed primary amendments, the public will be provided an opportunity to provide testimony regarding the proposed amendments. Ms. Laney will now provide a summary of the public notices, primary proposed amendments to the commercial feeds rule, and any related information.

MS. LANEY: All right. Good afternoon. I'm Katie Laney, an assistant division director with New Mexico Department of Agriculture. The commercial feeds rule was promulgated under the authority of the New Mexico Commercial Feed Act to protect consumers of commercial feed products by establishing standards for their labeling, registration, and sale.

Public notice for this hearing were published as following in accordance with the state law: June 23, 2026 in the New Mexico Register. Oops. I lost a page. They threw it away. Hang on. All right. Yeah. Sorry, audience.

Okay. We'll continue. June 23, 2026, in the Albuquerque Journal. June 23, 2026 in the Santa Fe New Mexican, in Spanish and English. June 23, 2026, in the Las Cruces Sun-News. Hearing notices were also posted on the New Mexico Sunshine

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

Copies of the proposed rule were made available at New Mexico Department of Agriculture's Las Cruces main office and on the department's website. Notification and the proposed rule were sent to the New Mexico Economic Development's Small Business Regulatory Advisory Commission and to the Legislative Counsel Services.

As of today, New Mexico Department of Agriculture has received no findings from either. Notice of public hearing was sent to all current commercial feed registrants.

The proposed rules repeal and replace the existing Commercial Feed Rules established to modernize -- to establish a modernized regulatory framework that is more consistent with current industry standards and more closely aligns with nationally recognized model regulations developed by the Association of American Feed Control Officials, AAFCO.

Aligning New Mexico's regulations with these nationally recognized standards will promote greater consistency in the administration and enforcement of the Commercial Feed Act. Facilitate

compliance with applicable state and federal labeling requirements.

Reduce unnecessary regulatory burden on regulated entities. And support the efficient interstate distribution of commercial feed and pet food products while maintaining appropriate consumer and animal health protection.

The existing Commercial Feeds Rule was promulgated under earlier industry standards and no longer adequately reflects the terminology, labeling requirements, product classifications, or regulatory practices currently recognized within the commercial feed and companion animal food industries.

Since adoption of the existing rule, the marketplace has evolved considerably, including the widespread introduction of specialty nutritional products and companion animal food marketed with increasingly detailed nutritional ingredients and marketing claims.

The proposed rule incorporates updated definitions, labeling standards, regulatory provisions that better align with current industry practices, nationally recognized model regulations, and applicable federal requirements.

These revisions are intended to improve

regulatory clarity, promote consistent interpretation and enforcement of the Commercial Feed Act, provide greater certainty to regulated entities, and ensure that commercial feed and pet food products distributed within New Mexico are accurately labeled in a manner that protects purchasers, consumers, and animal health.

Some of the areas of significant change include the following: Section 21.18.3.7, Definitions, is amended to add new definitions for terms including daily food, familiar household unit, food mixers, food supplements, pet nutritional facts, specialty pet nutritional facts, veterinary diet, and raw milk.

These new definitions modernize the terminology used throughout the rule and provide a regulatory foundation to implement the updated pet food labeling requirements. Section 21.18.3.13, Directions for Use and Precautionary Statements, is amended to establish specific requirements for raw milk distributed as commercial feed.

Under the proposed amendments, raw milk products must include the following warning statement. "Warning. Not for human consumption. This product has not been pasteurized and may contain harmful bacteria."

The amendments establish a minimum font size requirements for the warning statement based on the size of the label panel to ensure the warning is clear and conspicuous.

Additional provisions require raw milk distributed as commercial feed to be de-characterized using an approved coloring agent and prohibit the display or storage of raw milk commercial feed in areas where food for human consumption is sold or prepared unless specific provisions are met.

These amendments strengthen product identification requirements and provide additional public health protections related to raw milk commercial feed products.

Section 21.18.3.19, Pet Food and Specialty Pet Food Format and Labeling, contains some of the most significant revisions in the proposed rule. The amendments substantially revise and reorganize pet food and specialty pet food labeling requirements.

The revisions establish a new pet nutrition facts and specialty pet nutrition facts labeling framework modeled after the nutritional labeling concept familiar to consumers through human food products

The amendments expand requirement information and establish formatting requirement elements such as type size, placement, spacing, indentation, and overall label visibility.

The revised section also establishes specific labeling requirements for raw milk pet food products, including the warning statement and identification of species for which the raw milk was obtained.

Section 21.18.3.21, Pet Food and Specialty Pet Food Purpose Statement and Nutritional Adequacy, is amended to comprehensively revise nutritional adequacy requirements for pet food and specialty pet food products.

The revised section establishes more detailed purpose statement requirements based on the product category and intended use, providing greater consistency in how products are represented and labeled.

Section 21.18.3.22, Pet and Specialty Pet Nutritional Facts, creates a nutritional disclosure framework for pet food and specialty pet food products. The current rule primarily relies on traditional guaranteed analysis statements.

The proposed amendments transition to a

more comprehensive pet nutritional fact and specialty pet nutritional fact format that provides additional nutritional information to consumers in a standardized and recognizable format.

Section 21.18.3.23, Update the Pet Food and Specialty Pet Food Ingredients, updates declaration requirements by incorporating current AAFCO ingredient definitions and FDA recognized ingredient naming conventions. These updates improve consistency in ingredient labeling and provide greater clarity for manufacturers and consumers.

Section 21.18.3.25, Pet Food and Specialty Pet Food Feeding Directions, expands feeding direction requirements for pet food and specialty pet food products.

Under the proposed amendments, feeding directions must use familiar household units, such as cups, cans, treats, tablets, or pieces to make feeding instructions easier for consumers to understand and follow. The amendments also establish additional requirements for feeding frequency, serving size, and product formulated for specialty nutritional purposes.

Section 21.18.3.26, Determination of Calorie Content for Pet Foods, establishes requirements for the determination and disclosure of

calorie content for pet foods and specialty pet food products. This section supports the transition from traditional guaranteed analysis labeling towards a more comprehensive nutritional disclosure approach.

And lastly, 21.18.3.29, Handling and Storage Instructions, is a new section that establishes handling and storage instruction requirements for pet food and specialty pet food products. These requirements provide consumers with additional information necessary to safely store and handle products after purchase.

MR. DARDEN: Thank you, Ms. Laney.

New Mexico Department of Agriculture has received no written comments prior to this hearing. We will now open the floor to comments. Please begin by stating your name and affiliation for the record. Please raise your hand and wait until I call on you.

At this time, I will begin accepting comments. Please restrict your comments to the proposed content of the rule. Is there anyone else wishing to comment?

Seeing none, we will close the public oral comment period for this hearing. Written comments will be accepted until 5 p.m., Thursday,

August 6, 2026.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

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

Thank you all for participating. We will close the hearing at 1:13 p.m. Thank you.

MS. LANEY: Excellent.

(Whereupon, the meeting concluded at 1:13 p.m.)

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.



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

CERTIFICATE OF TRANSCRIBER

I, MARY SACKETT, 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.



MARY SACKETT

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Exhibits

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the New Mexico Department of Agriculture (NMDA), proposes to repeal and replace 21.18.3 NMAC, Commercial Feeds.

PURPOSE AND SUMMARY OF THE PROPOSED RULES:

Primary proposed amendments to 21.18.3 NMAC, Commercial Feeds, modernize the state's commercial feed regulations and align them more closely with current industry practices, contemporary nutritional science, and updated model regulations developed by the Association of American Feed Control Officials (AAFCO). The proposed amendments update definitions, labeling requirements, nutritional standards, ingredient declarations, and feeding directions for commercial feed, pet food, and specialty pet food products. The amendments also establish updated pet food labeling requirements, including nutrition information disclosures, and add labeling, handling, and warning requirements for certain products. The proposed changes are intended to improve regulatory clarity, consumer transparency, and consistency with current national standards.

STATUTORY AUTHORITY: Granted to the Board of Regents of New Mexico State University under the New Mexico Commercial Feed Act, Chapter 76, Article 19A, Sections 1 through 17, NMSA 1978 Compilation.

Copies of the Notice of Proposed Rulemaking and the proposed rules (including any technical information) are available by electronic download from the New Mexico Department of Agriculture website (https://nmdeptag.nmsu.edu) and are also available at the department's office, located at 1050 Stewart Street, Las Cruces, NM.

Tuesday, August 4, 2026, at 1:00 p.m., NMDA will host a public hearing that may be attended in person, by video conference, or by telephone. The hearing will take place at the Gerald Thomas Hall Auditorium (Room 194) on the campus of New Mexico State University, located at 940 College Drive, Las Cruces, NM.

Join the hearing via **video conference** Tuesday, August 4, 2026, at 1:00 p.m.:
Meeting URL: https://nmsu.zoom.us/j/83963736435
Meeting ID: 839 6373 6435
Or
Join the hearing via **phone** Tuesday, August 4, 2026, at 1:00 p.m.:
Phone: 16694449171 or 16699006833
Meeting ID: 839 6373 6435

Thursday, August 6, 2026, at 1:00 p.m., NMDA will host a public, in-person hearing at the CNM Workforce Training Center, located at 5600 Eagle Rock Ave NE, Albuquerque, NM.

Oral comments will be accepted at the hearings from members of the public and any interested parties. Written comments will be accepted until August 6, 2026, at 5:00 p.m. Comments may be submitted via email to comments@nmda.nmsu.edu or may be filed by sending original copies to:

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

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/Secretary will consider all oral comments and will review all timely submitted written comments and responses.

AVISO DE PROPUESTA DE REGLAMENTACIÓN

POR LA PRESENTE SE NOTIFICA que el Departamento de Agricultura de Nuevo México (NMDA) propone derogar y reemplazar la norma 21.18.3 NMAC, *Commercial Feeds* (Alimentos comerciales para animales).

PROPÓSITO Y RESUMEN DE LAS REGLAS PROPUESTAS:

Las principales modificaciones propuestas a la norma 21.18.3 NMAC, *Commercial Feeds*, tienen como objetivo modernizar las regulaciones estatales sobre alimentos comerciales para animales y alinearlas más estrechamente con las prácticas actuales de la industria, la ciencia nutricional contemporánea y las regulaciones modelo actualizadas desarrolladas por la Asociación de Funcionarios Estadounidenses de Control de Alimentos para Animales (AAFCO; Association of American Feed Control Officials). Las modificaciones propuestas actualizan las definiciones, los requisitos de etiquetado, las normas nutricionales, las declaraciones de ingredientes y las instrucciones de alimentación para productos de alimentos comerciales para animales, alimentos para mascotas y alimentos para mascotas de especialidad. Asimismo, las modificaciones establecen requisitos actualizados de etiquetado para alimentos para mascotas, incluida la divulgación de información nutricional, y añaden requisitos de etiquetado, manipulación y advertencia para ciertos productos. Los cambios propuestos buscan mejorar la claridad normativa, la transparencia para el consumidor y la coherencia con las normas nacionales vigentes.

AUTORIDAD LEGAL: Otorgada a la Junta de Regentes de la Universidad Estatal de Nuevo México (New Mexico State University) en virtud de la Ley de Alimentos Comerciales para Animales de Nuevo México (*New Mexico Commercial Feed Act*), Capítulo 76, Artículo 19A, Secciones 1 a 17, Compilación NMSA 1978.

Se pueden obtener copias del Aviso de Propuesta de Reglamentación y de las reglas propuestas (incluida cualquier información técnica) mediante descarga electrónica desde el sitio web del Departamento de Agricultura de Nuevo México (https://nmdeptag.nmsu.edu); también están disponibles en la oficina del departamento, ubicada en 1050 Stewart Street, Las Cruces, NM.

El martes 4 de agosto de 2026, a la 1:00 p.m., el NMDA celebrará una audiencia pública a la que se podrá asistir en persona, por videoconferencia o por teléfono. La audiencia tendrá lugar en el Auditorio Gerald Thomas Hall (Sala 194), en el campus de la Universidad Estatal de Nuevo México, ubicado en 940 College Drive, Las Cruces, NM.

Participe en la audiencia por **videoconferencia** el martes 4 de agosto de 2026 a la 1:00 p.m.:
URL de la reunión: https://nmsu.zoom.us/j/83963736435
ID de la reunión: 839 6373 6435
O
Participe en la audiencia por **teléfono** el martes 4 de agosto de 2026 a la 1:00 p.m.:
Teléfono: 16694449171 o 16699006833
ID de la reunión: 839 6373 6435

El jueves 6 de agosto de 2026 a la 1:00 p. m., el NMDA llevará a cabo una audiencia pública presencial en el CNM Workforce Training Center, ubicado en 5600 Eagle Rock Ave NE, Albuquerque, NM.

Se aceptarán comentarios orales durante las audiencias por parte del público y de cualquier parte interesada. Se aceptarán comentarios por escrito hasta el 6 de agosto de 2026 a las 5:00 p.m. Los comentarios pueden enviarse por correo electrónico a comments@nmda.nmsu.edu o presentarse enviando 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

NECESIDADES ESPECIALES: Si usted es una persona con discapacidad que necesita un lector, un amplificador, un intérprete de lenguaje de señas cualificado o cualquier otra forma 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 tan pronto como sea posible.

El Director/Secretario de Agricultura tomará en cuenta todos los comentarios orales y revisará todos los comentarios y respuestas por escrito presentados dentro del plazo establecido.

In the Matter of Proposed Repeal and Replacement Of 21.18.3 NMAC- Commercial Feeds

Background and Statement of Reasons for Proposed Amendments to 21.18.3 NMAC Commercial Feeds

The New Mexico Department of Agriculture administers and enforces the New Mexico Feed Act and associated regulations governing the manufacture, distribution, labeling, and sale of commercial feed products within the state. The purpose of these regulations is to ensure that commercial feed and pet food products are safe, properly labeled, nutritionally appropriate for their intended use, and not misbranded or adulterated.

The current version of 21.18.3 NMAC was developed under earlier industry standards and no longer fully reflects the structure, terminology, labeling practices, and product categories presently used within the commercial feed and companion animal food industries. Since adoption of the current rule, the pet food marketplace has evolved substantially, with increased availability of specialty nutritional products, veterinary diets, raw and refrigerated pet foods, supplements, food mixers, and products marketed using detailed nutritional and ingredient claims.

At the same time, the Association of American Feed Control Officials (AAFCO) has continued to revise and modernize its model regulations and labeling standards to address evolving nutritional science, product marketing practices, and consumer expectations. States have subsequently updated their commercial feed regulations to maintain consistency with these nationally recognized model standards.

The proposed amendments to 21.18.3 NMAC are intended to modernize New Mexico's commercial feed regulations and align the rule more closely with current industry practices, contemporary nutritional science, and updated AAFCO model regulations.

A principal reason for the proposed amendments is the substantial evolution of the companion animal food marketplace. The amendments create standardized regulatory definitions and labeling requirements for modern product categories, including veterinary diets, food supplements, food mixers, raw pet food products, specialty nutritional products, and other products not clearly addressed under the existing rule structure.

The amendments also replace or supplement several outdated labeling concepts with more modern nutritional disclosure standards. In particular, the proposed "Pet Nutrition Facts" and "Specialty Pet Nutrition Facts" systems are intended to provide consumers with clearer and more standardized nutritional information regarding pet food products, including calorie content, nutrient composition, feeding suitability, and intended use.

Additional amendments modernize nutritional adequacy requirements and clarify the standards under which products may be represented as "complete," "balanced," or otherwise nutritionally adequate. The revisions establish more detailed requirements for life-stage claims, specialty pet products, and products intended only for intermittent or supplemental feeding.

The amendments further modernize ingredient declaration standards and product naming requirements. The revised provisions governing ingredient claims, flavor claims, carbohydrate claims, and other marketing terminology are intended to reduce misleading or inconsistent labeling practices and improve uniformity with national labeling standards.

Several amendments are intended to address public health and product safety concerns. New labeling, handling, and warning requirements applicable to raw milk pet food products and raw pet food products are intended to improve consumer awareness and reduce the likelihood of accidental human consumption.

The livestock feed provisions are also updated to reflect current feeding practices and modern nutritional analysis methods. The amendments incorporate newer fiber measurements, revise species classifications, update guaranteed analysis requirements, and improve clarity regarding nutritional disclosures and feeding directions.

In addition to substantive regulatory updates, many amendments improve organization, readability, consistency, and enforceability throughout the rule. Terminology is standardized, duplicative provisions are reduced, and formatting requirements are clarified to assist both regulated entities and enforcement personnel.

Overall, the proposed amendments are intended to:

- modernize New Mexico's commercial feed regulations;
- align the rule with current AAFCO model standards and industry practices;
- improve consumer transparency and understanding;
- strengthen labeling consistency and nutritional disclosure requirements;
- address emerging pet food product categories and marketing practices;
- enhance public health and product safety protections; and
- improve the department's ability to administer and enforce the rule consistently and effectively.

Technical and Scientific Basis Supporting Proposed Amendments to 21.18.3 NMAC

The proposed amendments to 21.18.3 NMAC are supported by current scientific research, modern nutritional standards, national regulatory guidance, and ongoing pet food labeling modernization efforts led by the Association of American Feed Control Officials and the U.S. Food and Drug Administration.

A primary basis for the proposed amendments is the national effort to modernize pet food labeling standards through AAFCO's Pet Food Label Modernization (PFLM) initiative. AAFCO states that the project was initiated in 2015 to modernize pet food labels and provide labeling information that is "transparent, easy to understand, and in a format more familiar to

consumers." AAFCO further explains that the modernization process included extensive consumer research, regulator workgroups, industry advisors, and public comment participation. [1]

The proposed amendments establishing "Pet Nutrition Facts" and "Specialty Pet Nutrition Facts" panels are directly consistent with these modernization efforts and are intended to improve consumer understanding of nutritional adequacy, calorie content, feeding suitability, and product purpose.

The amendments revising nutritional adequacy statements and life-stage claims are further supported by FDA guidance regarding "complete and balanced" pet foods. FDA explains that nutritional adequacy statements are critical for determining whether a product is suitable as a pet's sole diet and recognizes AAFCO nutrient profiles and feeding trials as accepted methods for substantiating nutritional adequacy claims [2]. FDA also recognizes the importance of distinguishing products intended for growth, reproduction, and adult maintenance life stages.

The proposed revisions governing ingredient claims, flavor claims, carbohydrate claims, and other marketing representations are supported by longstanding FDA principles prohibiting false or misleading labeling. FDA states that animal food products must be truthfully labeled and contain labeling necessary for safe and appropriate use.[3]

The amendments addressing calorie disclosures, household-unit feeding instructions, and expanded nutritional transparency are also consistent with broader nutrition-labeling principles intended to improve consumer comprehension and informed purchasing decisions. AAFCO specifically identified improved readability, transparency, and consumer usability as core objectives of the Pet Food Label Modernization initiative. [4]

Several amendments are additionally supported by documented public health and food safety concerns associated with raw pet food and raw milk pet food products. The Centers for Disease Control and Prevention states that raw pet food products may contain harmful pathogens including Salmonella and Listeria and expressly advises that CDC "does not recommend feeding raw pet food or treats to dogs and cats." CDC further explains that raw pet foods can create contamination risks for both animals and humans through direct handling and environmental cross-contamination. [5]

Recent contamination events further support enhanced warning, handling, and storage requirements for raw pet food products. Multiple recent recalls involving pet food contaminated

[1] AAFCO introduction of model pet food and specialty pet food regulations: https://www.aafco.org/pflm
[2] FDA "Complete and Balanced" Pet Food: https://www.fda.gov/animal-veterinary/animal-health-literacy/complete-and-balanced-pet-food
[3] FDA- Pet Food: https://www.fda.gov/animal-veterinary/animal-foods-feeds/pet-food
[4] AAFCO introduction of model pet food and specialty pet food regulations: https://www.aafco.org/pflm
[5] CDC – About Pet Food Safety: https://www.cdc.gov/healthy-pets/about/pet-food-safety.html

with Salmonella, Listeria, and H5N1 avian influenza have resulted in FDA advisories and product recalls nationwide. [6]

Requiring enhanced labeling, warning statements, handling instructions, and storage disclosures for pet food products is supported by current scientific literature and public health guidance regarding contamination risks associated with raw animal products. A recent scientific review *Comprehensive reviews in food science and food safety* vol. 23,6 (2024) [7] documented repeated detection of pathogenic bacteria, including *Salmonella*, *E. coli*, and *Listeria*, in commercially available pet food products and identified labeling and handling practices as important risk mitigation measures.

Industry and regulatory support also exists for the broader modernization effort reflected in the proposed amendments. AAFCO has described the Pet Food Label Modernization project as a collaborative effort involving regulators, veterinarians, consumers, and pet food industry advisors. [8]

Overall, the proposed amendments are supported by current nutritional science, modern pet food labeling practices, public health guidance, and nationally recognized regulatory standards intended to improve transparency, nutritional disclosure, consumer understanding, and product safety within the commercial feed and pet food industries.

[6] Raaw Energy Expands Recall of Dog Food Because of Listeria Monocytogenes Health Risk: https://www.fda.gov/safety/recalls-market-withdrawals-safety-alerts/raaw-energy-expands-recall-dog-food-because-listeria-monocytogenes-health-risk. Voluntary Recall of Wild Coast Raw Boneless Free Range Chicken Formula Raw Pet Food Because of Possible Bird Flu Health Risk: https://www.fda.gov/safety/recalls-market-withdrawals-safety-alerts/voluntary-recall-wild-coast-raw-boneless-free-range-chicken-formula-raw-pet-food-because-possible

[7] Salmonella Presence and Risk Mitigation in Pet Foods: A Growing Challenge with Implications for Human Health: https://pmc.ncbi.nlm.nih.gov/articles/PMC11605167/.

[8] AAFCO introduction of model pet food and specialty pet food regulations: https://www.aafco.org/pflm

Substantive Changes Proposed to 21.18.3 NMAC Commercial Feeds

21.18.3.7 NMAC — Definitions

The amendments expand the definitions section to support the revised pet food and specialty pet food regulatory framework.

New definitions are added for “Daily Food,” “Familiar Household Unit,” “Food Mixer,” “Food Supplement,” “Pet Nutrition Facts,” “Specialty Pet Nutrition Facts,” “Veterinary Diet,” “Raw Milk,” and “Prescription Diet.”.

The amendments expand the definition of “All Life Stages” to specifically include dogs, cats, other mammals, and non-mammalian species. The revised definition more clearly distinguishes between growth, maintenance, juvenile, and adult life stages.

Collectively, these amendments modernize the terminology used throughout the rule and provide the legal and regulatory framework necessary to support the revised pet food labeling system.

21.18.3.8 NMAC — Label Format

Section not amended

21.18.3.9 NMAC — Labeling

The amendments revise commercial feed labeling requirements.

The revised section creates new purpose statement requirements for single ingredient feeds. Single ingredient products must now identify themselves as either “single ingredient feed” or “feed ingredient.” The amendment distinguishes ingredient products from complete feeds and supplements and improves product identification for consumers.

The amendments also establish entirely new labeling requirements for livestock treats and snacks. Products intended to function as treats or snacks must identify themselves as such and must clearly identify the intended species on the principal display panel.

The guaranteed analysis provisions are modernized through the addition of newer fiber measurements, including Neutral Detergent Fiber (NDF) and additional Acid Detergent Fiber (ADF) references. These revisions recognize modern forage quality and digestibility evaluation methods.

The amendments revise multiple species-specific nutrient guarantee requirements. For swine feed, the mandatory zinc guarantee requirement is removed. Dairy cattle classifications are modernized and reorganized to replace older production terminology with current industry classifications such as replacement dairy heifers, dairy calves, lactating dairy cows, and dry dairy cows.

Equine feed provisions are revised. Older classifications such as “foal,” “mare,” and “breeding” are replaced with broader production-based categories including “growing,” “broodmare,” “performance,” and “maintenance.” Additional fiber guarantees are required for equine feeds.

The amendments create a completely new guaranteed analysis category for livestock treats. Required guarantees now include crude protein, crude fat, crude fiber, and any additional guarantees necessary to support label claims.

Overall, the amendments modernize livestock feed labeling standards and improve clarity, consistency, and nutritional disclosure requirements.

21.18.3.10 NMAC — Expression of Guarantees

The revisions broaden the rule’s treatment of fiber guarantees by replacing narrow references to crude fiber and acid detergent fiber with broader references to “other fiber indicators.” This amendment accommodates newer analytical methodologies used in modern feed analysis.

The revised section permits mineral and vitamin guarantees to be expressed on a per-unit basis for products such as tablets, capsules, granules, liquids, and other unit-dose products. This amendment is particularly significant for companion animal supplements and specialty nutritional products that are not traditionally sold or administered by weight.

These changes modernize nutrient disclosure standards and improve compatibility with contemporary supplement and specialty nutritional product markets.

21.18.3.11 NMAC — Substantiation of Nutritional Suitability

Section not amended.

21.18.3.12 NMAC — Ingredients

Section not amended.

21.18.3.13 NMAC — Directions for Use and Precautionary Statements

The amendments expand requirements for directions for use and precautionary statements for raw milk distributed as commercial feed.

Raw milk products must bear the statement:

“WARNING: NOT FOR HUMAN CONSUMPTION – THIS PRODUCT HAS NOT BEEN PASTEURIZED AND MAY CONTAIN HARMFUL BACTERIA.”

The amendments prescribe mandatory minimum font sizes for the warning statement based on label panel size.

Additional requirements mandate that raw milk distributed as commercial feed be decharacterized with approved coloring agents and prohibit the display or storage of raw milk commercial feed in locations where food is sold or prepared for human consumption unless specified conditions are met.

These amendments significantly expand product safety and public health protections relating to raw milk commercial feed products.

21.18.3.14 NMAC — Non-Protein Nitrogen

The revised section retains the substantive limitations governing use of non-protein nitrogen in ruminant feeds while expanding feeding guidance recommendations for products where substantial protein content is derived from non-protein nitrogen sources.

These revisions primarily improve readability and administrative clarity while maintaining existing safety standards.

21.18.3.15 NMAC — Drug and Feed Additives

Section not amended.

21.18.3.16 NMAC — Adulterants

The amendments retain the existing adulteration framework, while reorganize and clarify provisions relating to adulteration. No major substantive changes are made within this section. The amendments primarily update formatting and readability.

21.18.3.17 NMAC — Good Manufacturing Practices

Section not amended.

21.18.3.18 NMAC — Certain Mammalian Proteins Prohibited in Ruminant Feed

Section not amended.

21.18.3.19 NMAC — Pet Food and Specialty Pet Food Label Format and Labeling

The amendments to Section 21.18.3.19 constitute one of the most significant substantive revisions in the proposed rule. The revised section completely restructures pet food and specialty pet food labeling requirements and substantially expands mandatory disclosures.

The amendments create a new “Pet Nutrition Facts” and “Specialty Pet Nutrition Facts” labeling framework modeled after human food nutrition facts labeling concepts.
The revised section establishes detailed formatting requirements governing:

- principal display panels;
- nutrition facts panels;
- purpose statements;
- species identification;
- feeding directions;
- handling instructions;
- manufacturer information;
- warning statements; and
- specialty product disclosures.

The amendments substantially expand the information required on pet food labels and prescribe formatting standards for type size, placement, line spacing, indentation, and conspicuousness.
The revised section also creates labeling requirements for raw milk pet food products, including mandatory warning statements and source-species identification.
The amendments broaden the scope of regulated pet food products to include:

- food supplements;
- food mixers;
- veterinary diets;
- treats;
- snacks;
- specialty nutritional products; and
- specialty pet foods.

Compared to the current rule, Section 21.18.3.19 establishes a more detailed and prescriptive pet food labeling framework.

21.18.3.20 NMAC — Pet Food and Specialty Pet Food Brand and Product Names

No major substantive changes are made within this section. The amendments primarily update formatting, readability and eliminate duplication created by amendments made in other sections.

21.18.3.21 NMAC — Pet Food and Specialty Pet Food Purpose Statements and Nutritional Adequacy

The amendments comprehensively revise the nutritional adequacy framework for pet food and specialty pet food products. The revised section creates detailed purpose statement requirements for numerous newly recognized product categories, including:

- complete foods;

- complementary foods;
- daily foods;
- food supplements;
- food mixers;
- treats;
- snacks;
- veterinary diets; and
- specialty pet foods.

The amendments establish substantially more detailed requirements governing when products may represent themselves as “complete and balanced,” “100% nutritious,” or otherwise nutritionally adequate.

The revised section expands life-stage classifications and creates specialized standards for large breed puppy foods.

The amendments clarify acceptable methods for substantiating nutritional adequacy claims, including:
- nutrient profile formulation;
- feeding protocols;
- and family-product substantiation.

Products intended only for intermittent or supplemental feeding must now bear specific disclosure statements.

The amendments create an entirely new regulatory category for “daily food” products intended for specialty pet species lacking recognized nutritional authorities.

The revised section also establishes formal labeling requirements for veterinary diets and strengthens restrictions on misleading nutritional adequacy claims.

Compared to the current rule, Section 21.18.3.21 establishes a substantially more detailed and structured nutritional adequacy framework.

21.18.3.22 NMAC — Pet and Specialty Pet Nutrition Facts

The amendments create an entirely new nutrition disclosure framework for pet food and specialty pet food products.
The current rule relies primarily on traditional guaranteed analysis statements. The revised section instead creates mandatory “Pet Nutrition Facts” and “Specialty Pet Nutrition Facts” panels that resemble human food nutrition facts labels.

The revised section establishes detailed requirements governing:
- caloric disclosures;
- nutrient guarantees;

- nutrient order;
- carbohydrate calculations;
- dietary fiber disclosures;
- moisture disclosures;
- familiar household units;
- formatting;
- line spacing;
- indentation;
- and presentation.

The amendments require disclosure of calories per familiar household unit and caloric contributions from protein, fat, and carbohydrates.

The revised section establishes separate formatting requirements for:
- standard packages;
- small packages; and
- very small packages.

The amendments also create separate nutritional disclosure requirements for food supplements, veterinary diets, food mixers, and specialty pet products.

This section represents one of the largest substantive changes in the proposed rule and fundamentally transforms pet food nutritional disclosure requirements

21.18.3.23 NMAC — Pet Food and Specialty Pet Food Ingredients

The amendments significantly expand ingredient declaration requirements for pet food and specialty pet food products.

The revised section updates ingredient naming standards to incorporate current AAFCO ingredient definitions and FDA naming standards.

The amendments establish detailed rules governing:
- vitamin and mineral premixes;
- microorganism naming;
- fish ingredient naming;
- species identification for meat ingredients;
- codified ingredient standards; and
- grouped ingredient declarations.

The revised section permits ingredient declarations using grouped vitamin and mineral terminology while preserving disclosure of constituent ingredients.

The amendments create substantially more detailed ingredient disclosure requirements than currently exist under the rule.

21.18.3.24 NMAC — Pet Food and Specialty Pet Food Drugs and Additives

The amendments retain the current regulatory framework governing pet food additives and drugs while modernizing formatting and terminology. Revisions are limited and primarily organizational.

21.18.3.25 NMAC — Pet Food and Specialty Pet Food Feeding Directions

The amendments substantially expand feeding direction requirements for pet food and specialty pet food products.

The revised section establishes separate feeding instruction requirements for:

- complete foods;
- supplements;
- treats;
- food mixers;
- veterinary diets; and
- specialty pet foods.

Feeding directions must now use familiar household units such as cups, cans, treats, tablets, or pieces.

Additional requirements govern feeding frequency, serving size, and directions for specialized nutritional products.

These amendments create significantly more detailed feeding direction standards than presently exist under the rule.

21.18.3.26 NMAC — Determination of Calorie Content for Pet Foods

The amendments create detailed calorie content disclosure requirements for pet food and specialty pet food products.

The revised section establishes methods for calculating calorie content through either modified Atwater calculations or feeding trials.

The amendments require disclosure of calories per familiar household unit and create standardized terminology for calorie disclosure statements.

The revised section also establishes methods for calculating calories contributed by protein, fat, and carbohydrates.

This section supports the broader transition from traditional guaranteed analysis labeling toward nutrition-facts-style pet food disclosures.

21.18.3.27 NMAC — Pet Food and Specialty Pet Food Descriptive Terms:

The amendments primarily consist of organizational revisions, formatting modernization, terminology updates, and conforming edits necessary to support the revised pet food labeling and nutritional disclosure framework. No major independent substantive changes are created within the sections beyond harmonization with the revised pet food and labeling provisions.

21.18.3.28 NMAC — Pet Food and Specialty Pet Food Manufacture or Distributor; Name and Address:

The amendment consists of adding a distributed by/ for business name and address requirement when the pet food is not distributed by the manufacture.

21.18.3.29 NMAC - Handling and Storage Instructions

The proposed amendments expand handling and storage instruction requirements for pet food and specialty pet food products.

Under the current rule, handling and storage requirements are limited and generally implied through general labeling standards. The amended rule creates more explicit obligations requiring manufacturers to provide handling and storage instructions whenever necessary to ensure product safety, maintain product integrity, or prevent contamination or spoilage.

The revised provisions allow for the use of storage and handling graphics specified in the proposed amendments relating to:

- separation,
- sanitation,
- refrigeration,
- storage,
- freezing,
- and disposal

Overall, the amendments create a more comprehensive product safety framework by formally incorporating handling and storage disclosures into the pet food labeling requirements, which were previously addressed only minimally or indirectly under the current rule.

21.18.3.30 through 21.18.3.32 NMAC
Revisions are limited and consist of alignment with statutory changes, and removal of redundant langue.

<u>Overall Effect of the Proposed Amendments</u>

The proposed amendments to 21.18.3 NMAC comprehensively modernize New Mexico's commercial feed regulations and align the rule more closely with current AAFCO model regulations and contemporary feed industry practices.

The amendments create a substantially more detailed and prescriptive regulatory framework for pet food and specialty pet food labeling. The most significant changes include:

- creation of Pet Nutrition Facts and Specialty Pet Nutrition Facts labeling systems;
- expanded nutritional adequacy requirements;
- establishment of new product categories such as food mixers, supplements, veterinary diets, and daily foods;
- modernization of ingredient disclosure standards;
- expanded raw milk labeling and warning requirements;
- revised feeding direction standards;
- and expanded nutritional and caloric disclosure obligations.

The amendments also modernize livestock feed labeling, nutrient guarantees, and animal classifications while improving administrative clarity and consistency throughout the rule.

Overall, the proposed amendments are intended to improve consumer transparency, modernize nutritional disclosures, align New Mexico regulations with national standards, and address contemporary commercial feed and pet food marketing practices.

ARTICLE 19A
Commercial Feed

76-19A-1. Short title.

Chapter 76, Article 19A NMSA 1978 may be cited as the "New Mexico Commercial Feed Act".

History: Laws 2013, ch. 23, § 1; 2020, ch. 69, § 4.

ANNOTATIONS

The 2020 amendment, effective July 1, 2020, changed "This act" to "Chapter 76, Article 19A NMSA 1978".

76-19A-2. Definitions.

As used in the New Mexico Commercial Feed Act:

A. "board" means the board of regents of New Mexico state university;

B. "brand name" means any word, name, symbol or device, or any combination of words, names, symbols or devices, that identifies a commercial feed and distinguishes it from that of other commercial feeds;

C. "commercial feed" means one or more feed ingredients that are not otherwise exempt from the provisions of the New Mexico Commercial Feed Act that are manufactured into an animal feed or used as a feed ingredient in the manufacture of another commercial feed;

D. "contract feeder" means a person who is an independent contractor and who feeds commercial feed to animals pursuant to a contract whereby the commercial feed is supplied, furnished or otherwise provided to the person and whereby the person's remuneration is determined all or in part by feed consumption, mortality, profits or amount or quality of product;

E. "customer-formula feed" means a commercial feed that consists of a mixture of feed ingredients, each batch of which is manufactured according to the specific instructions of the final purchaser;

F. "department" means the New Mexico department of agriculture;

G. "distribute" means to offer for sale, exchange or barter or to sell, exchange or barter commercial feed;

H. "distributor" means a person who distributes commercial feed;

I. "drug" means an article intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in animals other than humans and an article other than commercial feed intended to affect the structure or any function of the animal body;

J. "feed ingredient" means any of the constituent materials that make up a commercial feed;

K. "label" means a display of written, printed or graphic matter upon or affixed to the container in which a commercial feed is distributed or on the invoice or delivery slip with which a commercial feed is distributed;

L. "labeling" means all labels and other written, printed or graphic matter on a commercial feed or any of its containers or wrappers accompanying that commercial feed;

M. "manufacture" means to grind, mix or blend or further process a commercial feed for distribution;

N. "mineral feed" means a commercial feed intended to supply primarily mineral elements or inorganic nutrients;

O. "official sample" means a sample of commercial feed taken by the department;

P. "pet food" means commercial feed prepared and distributed for consumption by dogs or cats;

Q. "product name" means the name of a commercial feed that identifies it as to kind, class or specific use and distinguishes it from all other products bearing the same brand name;

R. "quantity statement" means the net weight, net volume or count of commercial feed;

S. "registrant" means the person who registers commercial feed with the department;

T. "specialty pet food" means commercial feed prepared and distributed for consumption by domesticated animals other than dogs and cats that are normally maintained in a cage or tank, including gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes and turtles; and

U. "ton" means a net weight of two thousand pounds avoirdupois.

History: Laws 2013, ch. 23, § 2.

ANNOTATIONS

Effective dates. — Laws 2013, ch. 23, § 19 made the New Mexico Commercial Feed Act effective July 1, 2013.

76-19A-3. Board and department powers and duties.

A. The New Mexico Commercial Feed Act shall be administered by the department under the direction of the board. The board shall adopt and promulgate rules to carry out the provisions of that act.

B. In promulgating rules as appropriate to the conditions that exist in New Mexico, the board shall consider current good manufacturing practices and definitions of feed ingredients and commercial feed terms recognized by the commercial feed industry and the federal government.

History: Laws 2013, ch. 23, § 3.

ANNOTATIONS

Effective dates. — Laws 2013, ch. 23, § 19 made the New Mexico Commercial Feed Act effective July 1, 2013.

76-19A-4. Applicability.

The New Mexico Commercial Feed Act applies to mineral feed, pet food and specialty pet food as well as other commercial feed. That act applies to contract feeders as well as distributors.

History: Laws 2013, ch. 23, § 4.

ANNOTATIONS

Effective dates. — Laws 2013, ch. 23, § 19 made the New Mexico Commercial Feed Act effective July 1, 2013.

76-19A-5. Exemptions.

The following are exempt from the provisions of the New Mexico Commercial Feed Act:

A. commodities such as hay, straw, stover, silage, cobs, husks, hulls and individual chemical compounds or substances that are not intermixed with other materials for animal feed and are not adulterated as provided in Section 8 [76-19A-8 NMSA 1978] of the New Mexico Commercial Feed Act; and

B. unmixed whole seeds and physically altered entire unmixed seeds, when they are not chemically changed and are not adulterated as provided in Section 8 of the New Mexico Commercial Feed Act.

History: Laws 2013, ch. 23, § 5.

ANNOTATIONS

Effective dates. — Laws 2013, ch. 23, § 19 made the New Mexico Commercial Feed Act effective July 1, 2013.

76-19A-6. Prohibited acts.

A person shall not:

A. manufacture or distribute commercial feed that is adulterated or misbranded;

B. adulterate or misbrand commercial feed;

C. distribute otherwise exempt agricultural commodities or products that are adulterated as provided in Section 8 [76-19A-8 NMSA 1978] of the New Mexico Commercial Feed Act;

D. fail to register commercial feed in accordance with the New Mexico Commercial Feed Act;

E. fail to pay inspection fees and file reports as required by the New Mexico Commercial Feed Act;

F. sell, distribute or dispose of commercial feed in violation of a withdrawal from distribution order issued by the department or otherwise violate a withdrawal from distribution order;

G. impede, hinder or otherwise prevent or attempt to prevent an agent of the department from performing the agent's duty in accordance with the New Mexico Commercial Feed Act; or

H. reuse bags and totes for commercial feed unless they are cleaned as prescribed by the board.

History: Laws 2013, ch. 23, § 6.

ANNOTATIONS

Effective dates. — Laws 2013, ch. 23, § 19 made the New Mexico Commercial Feed Act effective July 1, 2013.

76-19A-7. Misbranding.

A commercial feed shall be deemed to be misbranded if:

A. its labeling is false or misleading in any particular;

B. it is distributed under the name of another commercial feed;

C. it is not labeled as required in Section 9 [76-19A-9 NMSA 1978] of the New Mexico Commercial Feed Act;

D. it purports to be a commercial feed or it purports to contain a feed ingredient and the commercial feed or feed ingredient does not conform to the definition of the commercial feed or feed ingredient, if any, prescribed by board rule; or

E. any word, statement or other information that is required by the New Mexico Commercial Feed Act or rules adopted in accordance with that act to appear on the label or labeling is not prominently placed on the label with such conspicuousness, as compared with other words, statements, designs or devices in the labeling, and in such terms as to render it likely to be read and understood by the ordinary person under customary conditions of purchase and use.

History: Laws 2013, ch. 23, § 7.

ANNOTATIONS

Effective dates. — Laws 2013, ch. 23, § 19 made the New Mexico Commercial Feed Act effective July 1, 2013.

76-19A-8. Adulteration.

A commercial feed is adulterated if:

A. it bears or contains any poisonous or deleterious substance that may render it injurious to health; provided, however, that if the poisonous or deleterious substance is not an added substance, the commercial feed shall not be considered adulterated pursuant to this subsection if the quantity of the poisonous or deleterious substance in the commercial feed does not ordinarily render it injurious to health;

B. it bears or contains any added poisonous, deleterious or nonnutritive substance that is unsafe as prescribed by the board;

C. it is or it bears or contains any food additive that is unsafe as prescribed by board rule;

D. it is a raw agricultural commodity and it bears or contains a pesticide chemical that is unsafe as provided in board rule; provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed by the board and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating or milling, the residue of the pesticide chemical remaining in or on such processed commercial feed shall not be deemed unsafe if the residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of the residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of such processed feed will result or is likely to result in a pesticide residue in the edible product of the animal that is unsafe as prescribed by the board;

E. it is or it bears or contains any color additive that is unsafe as prescribed by the board;

F. it is or it bears or contains any new animal drug that is unsafe as prescribed by the board;

G. it consists, in whole or in part, of any filthy, putrid or decomposed substance or it is otherwise unfit for animal feed;

H. it has been prepared, packed or held under unsanitary conditions under which it may have become contaminated with filth or been rendered injurious to animal health;

I. it is, in whole or in part, the product of a diseased animal or of an animal that has died otherwise than by slaughter that is unsafe as prescribed by the board;

J. its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to animal health;

K. it has been intentionally subjected to radiation except as prescribed by the board;

L. any valuable constituent has been, in whole or in part, omitted or abstracted from the commercial feed or any less valuable substance substituted for the valuable constituent;

M. its composition or quality falls below or differs from that it is purported or is represented to possess by its labeling;

N. it contains a drug and the methods used in or the facilities or controls used for the drug's manufacture, processing or packaging do not conform to current good manufacturing practice rules promulgated by the board to assure that the drug meets the requirement of the New Mexico Commercial Feed Act as to safety

and has the identity and strength and meets the quality and purity characteristics that it purports or is represented to possess; or

O. it contains viable weed seeds in amounts that exceed the limits established by the board.

History: Laws 2013, ch. 23, § 8.

ANNOTATIONS

Effective dates. — Laws 2013, ch. 23, § 19 made the New Mexico Commercial Feed Act effective July 1, 2013.

76-19A-9. Labeling.

A. Commercial feed, except customer-formula feed, shall be accompanied by a label bearing the following information:

(1) the quantity statement;

(2) the product name and the brand name, if any, under which the commercial feed is distributed;

(3) the guaranteed analysis, expressed on an "as is" basis, stated in such terms as the board determines is required to advise the user of the composition of the feed or to support claims made in the labeling; provided that in all cases the substances or elements shall be determinable by laboratory methods approved by the board;

(4) the common or usual name of each ingredient used in the manufacture of the commercial feed; provided that the board may allow the use of a collective term for a group of ingredients that perform a similar function, or it may exempt such commercial feeds or any group of commercial feed from the requirement of an ingredient statement if the board finds that such statement is not required in the interest of consumers;

(5) the name and principal mailing address of the manufacturer or distributor;

(6) adequate directions for the use for commercial feed that contains drugs and for such other commercial feed that the board requires as necessary for safe and effective use; and

(7) such precautionary statements as the board determines are necessary for the safe and effective use of the commercial feed.

B. Customer-formula feed shall be accompanied by a label, invoice, delivery slip or other shipping document that bears the following information:

(1) the name and address of the manufacturer;

(2) the name and address of the purchaser;

(3) the date of delivery;

(4) the product name and quantity statement of each commercial feed and each other feed ingredient used in the mixture;

(5) adequate directions for use for customer-formula feed that contains drugs and for such other customer-formula feed that the board requires as necessary for safe and effective use;

(6) precautionary statements as required by the board; and

(7) if the customer-formula feed contains drugs:

(a) the purpose of the drugs; and

(b) the established name of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with board rules.

History: Laws 2013, ch. 23, § 9.

ANNOTATIONS

Effective dates. — Laws 2013, ch. 23, § 19 made the New Mexico Commercial Feed Act effective July 1, 2013.

76-19A-10. Registration of commercial feed.

A. All commercial feed, except customer-formula feed, shall be registered with the department before being distributed in New Mexico. The application for registration shall be submitted on forms furnished by the department and accompanied by a label or other printed matter describing the commercial feed and by a registration fee of two dollars ($2.00). A copy of the approved registration shall be provided to the registrant. A commercial feed registration expires annually on December 31.

B. A distributor is not required to register a brand of commercial feed that is already registered by another person pursuant to the New Mexico Commercial Feed Act.

C. The department may refuse registration if the application does not comply with the provisions of the New Mexico Commercial Feed Act and may cancel a registration that is subsequently found not to be in compliance with the provisions of that act; provided, however, that a registration shall not be refused or canceled until the applicant or registrant has been given an opportunity to be heard before the board and to amend the application or to cure the problem in registration to comply with the requirements of the New Mexico Commercial Feed Act.

History: Laws 2013, ch. 23, § 10.

ANNOTATIONS

Effective dates. — Laws 2013, ch. 23, § 19 made the New Mexico Commercial Feed Act effective July 1, 2013.

76-19A-10.1. Spay and neuter program fee.

A. Except as provided in Subsection B of this section, in addition to the commercial feed registration fee required pursuant to Section 76-19A-10 NMSA 1978, the department shall collect an annual fee on each pet food registered with the department as follows:

(1) beginning January 1, 2021, fifty dollars ($50.00);

(2) beginning January 1, 2022, seventy-five dollars ($75.00); and

(3) on and after January 1, 2023, one hundred dollars ($100).

B. The provisions of Subsection A of this section do not apply in cases of:

(1) prescription diet pet food prescribed by a veterinarian; or

(2) pet food manufactured by a person who demonstrates to the board, in a manner prescribed by the board, that the person's tax-year annual gross revenue from the distribution of pet food is no more than three million dollars ($3,000,000).

C. The fee collected pursuant to Subsection A of this section shall be distributed as follows:

(1) ninety-six percent of the fee shall be deposited with the state treasurer and credited to the statewide spay and neuter subaccount of the animal care and facility fund; and

(2) four percent of the fee shall be distributed to the department to administer the New Mexico Commercial Feed Act.

History: Laws 2020, ch. 69, § 5.

ANNOTATIONS

Repeals. — Laws 2026, ch. 32, § 1, effective May 20, 2026, repealed Laws 2020, ch. 69, § 6, which would have provided for the repeal of 76-19A-10.1 NMSA 1978, effective July 1, 2026.

Effective dates. — Laws 2020, ch. 69, § 7 made Laws 2020, ch. 69, § 5 effective July 1, 2020.

76-19A-11. Inspection, sampling and analysis.

A. Except as provided in Subsection E of this section, to enforce the provisions of the New Mexico Commercial Feed Act, an employee or agent of the department may enter upon the premises and inspect any factory, warehouse or other establishment in New Mexico in which commercial feeds are manufactured, processed, packed or held for distribution or enter any vehicle being used to transport or hold commercial feed. The employee or agent may inspect all pertinent equipment, finished and unfinished materials, containers and labeling in the establishment. Entry and inspection shall be during normal business hours and after written notice to the owner, operator or agent in charge. The employee or agent shall present appropriate credentials to the owner, operator or agent in charge of the factory, warehouse or other establishment. Inspections shall be within reasonable limits and in a reasonable manner and may include the verification of only such records and production and control procedures as may be necessary to determine compliance with the provisions of the New Mexico Commercial Feed Act and rules promulgated in accordance with that act. A separate notice shall be given for each inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each inspection shall be commenced and completed with

reasonable promptness. Upon completion of the inspection, the person in charge of the facility or vehicle shall be so notified.

B. Before leaving the premises, the employee or agent of the department who is making the inspection shall give to the owner, operator or agent in charge a receipt for any official samples obtained during the inspection.

C. If the owner of a factory, warehouse or other establishment, or the owner's agent, refuses to admit the employee or agent of the department to inspect in accordance with Subsection A of this section, the department may ask the district court for a warrant directing such owner or the owner's agent to submit the premises described in the warrant to inspection.

D. An employee or agent of the department may enter upon any public or private premises, including any vehicle of transport, during regular business hours to have access to and to obtain official samples and to examine records relating to distribution of commercial feeds.

E. When an employee or agent of the department has reasonable cause to believe that any lot of commercial feed is being distributed in violation of any of the provisions of the New Mexico Commercial Feed Act or rules promulgated in accordance with that act, the employee or agent may issue a withdrawal from distribution order as provided in Section 13 [76-19A-13 NMSA 1978] of the New Mexico Commercial Feed Act.

F. Official sampling and analysis shall be conducted in accordance with methods approved by the board.

G. The results of all analyses of official samples shall be forwarded by the department to the person named on the label and to the purchaser. When the inspection and analysis of an official sample indicates a commercial feed has been adulterated or misbranded, the owner or operator may request a portion of the official sample, and the department shall comply with the request within thirty days following receipt of the analysis.

H. In determining for administrative purposes whether a commercial feed is deficient in any component, the department shall be guided by the official sample obtained and analyzed as provided in this section.

History: Laws 2013, ch. 23, § 11.

ANNOTATIONS

Effective dates. — Laws 2013, ch. 23, § 19 made the New Mexico Commercial Feed Act effective July 1, 2013.

76-19A-12. Inspection fees; reports; cancellation of registrations.

A. An inspection fee set by the board shall be paid to the board for all commercial feeds distributed in New Mexico. The fee shall be twenty-five cents ($.25) per ton, but not less than five dollars ($5.00) per reporting period, or, for each brand of commercial feed distributed in individual packages of ten pounds or less, a distributor shall pay an annual inspection fee of twenty-five dollars ($25.00) and shall not pay the tonnage fee on such packages of the brand so registered.

B. The board may index the amount of a fee for inflation until July 1, 2031 using the consumer price index, all urban consumers: all items published by the United States department of labor. Fees collected shall constitute a fund for the payment of the costs of inspection, sampling and analysis and other expenses necessary for the administration of that act.

C. Except as otherwise provided in this section, a person who distributes commercial feed in New Mexico shall:

(1) file, not later than the last day of January, April, July and October of each year, a quarterly statement setting forth the number of net tons of commercial feeds distributed in New Mexico during the preceding calendar quarter and, upon filing the statement, shall pay the inspection fee. When more than one person is involved in the distribution of commercial feed, the person who distributes to the consumer is responsible for reporting the tonnage and paying the inspection fee unless the report and payment have been made by a prior distributor of the feed; and

(2) keep such records as may be necessary or required by the board to indicate accurately the tonnage of commercial feeds distributed in New Mexico, and the board may examine those records to verify statements of tonnage. If a quarterly report is not filed or if the inspection fee is not paid within the thirty-day period after the end of a quarter, a penalty of twenty percent, or a sum of ten dollars ($10.00), whichever is greater, shall be due in addition to the inspection fees, and the inspection fees and the penalty shall constitute a debt for which suit may be brought by the board.

D. Failure to make an accurate statement of tonnage or to pay the inspection fee or comply with the provisions of the New Mexico Commercial Feed Act shall constitute sufficient cause for the cancellation of all registrations on file for the distributor.

History: Laws 2013, ch. 23, § 12; 2026, ch. 13, § 7.

ANNOTATIONS

The 2026 amendment, effective July 1, 2026, increased the inspection fee for commercial feed, and authorized the board of regents of New Mexico state university to impose increases to fees up to the rate of inflation measured in the consumer price index for all urban consumers through the end of fiscal year 2031; in Subsection A, after "An inspection fee" added "set by the board", after "The fee shall" deleted "not exceed" and added "be twenty-five cents ($.25)", after "per ton" added "but not less than five dollars ($5.00) per reporting period", and after "an annual inspection fee" deleted "not to exceed" and added "of"; in Subsection B, after the subsection designation, deleted "Fees collected shall not exceed the costs of inspection, sampling and analysis and other expenses necessary for the administration of the New Mexico Commercial Feed Act." and added "The board may index the amount of a fee for inflation until July 1, 2031 using the consumer price index, all urban consumers: all items published by the United States department of labor."; and in Subsection C, Paragraph C(2), after "whichever is greater" deleted "will" and added "shall".

76-19A-13. Detained commercial feed.

A. When an employee or agent of the department has reasonable cause to believe that any lot of commercial feed is being distributed in violation of any of the provisions of the New Mexico Commercial Feed Act or rules promulgated in accordance with that act, it may issue and enforce a written "withdrawal from distribution" order, warning the distributor not to dispose of the lot of commercial feed in any manner until written permission is given by the department or the district court.

B. The department shall release for distribution the lot of commercial feed that was withdrawn from distribution when the provisions of the New Mexico Commercial Feed Act have been complied with. If the department and the distributor agree that the lot of commercial feed is adulterated or otherwise cannot comply with that act within thirty days, the department shall release the lot of commercial feed for disposal in a manner approved by the department.

C. If the distributor has not complied with the provisions of the New Mexico Commercial Feed Act or rules promulgated in accordance with that act within thirty days or if the department has reasonable grounds to believe that the lot of commercial feed will be distributed in violation of the withdrawal from distribution order, the department shall begin condemnation and seizure proceedings against the lot of commercial feed. The department may file a complaint for seizure in the district court in the judicial district in which the commercial feed is located.

D. If, after hearing, the court finds that the commercial feed violates the provisions of the New Mexico Commercial Feed Act or rules promulgated in accordance with that act and orders the commercial feed to be condemned, the department shall ensure that it is disposed of in an appropriate manner. The court may allow the distributor to process or re-label the commercial feed to bring it into compliance with the New Mexico Commercial Feed Act.

History: Laws 2013, ch. 23, § 13.

ANNOTATIONS

Effective dates. — Laws 2013, ch. 23, § 19 made the New Mexico Commercial Feed Act effective July 1, 2013.

76-19A-14. Injunctions; appeals of decisions of the department.

A. The department may apply to the district court for a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of the New Mexico Commercial Feed Act or the rules promulgated in accordance with that act.

B. A person adversely affected by an act, order or ruling made pursuant to the provisions of the New Mexico Commercial Feed Act may appeal the decision as provided in Section 39-3-1.1 NMSA 1978.

History: Laws 2013, ch. 23, § 14.

ANNOTATIONS

Effective dates. — Laws 2013, ch. 23, § 19 made the New Mexico Commercial Feed Act effective July 1, 2013.

76-19A-15. Penalties.

A person convicted of violating Section 6 [76-19A-6 NMSA 1978] of the New Mexico Commercial Feed Act is guilty of a misdemeanor and shall be fined in an amount not more than one hundred dollars ($100) for the

first violation and not more than one thousand dollars ($1,000) for a second or subsequent violation.

History: Laws 2013, ch. 23, § 15.

ANNOTATIONS

Effective dates. — Laws 2013, ch. 23, § 19 made the New Mexico Commercial Feed Act effective July 1, 2013.

76-19A-16. Cooperation with other entities.

The department may cooperate with and enter into agreements with governmental agencies of New Mexico, other states and the federal government and private associations to carry out the purpose and provisions of the New Mexico Commercial Feed Act.

History: Laws 2013, ch. 23, § 16.

ANNOTATIONS

Effective dates. — Laws 2013, ch. 23, § 19 made the New Mexico Commercial Feed Act effective July 1, 2013.

76-19A-17. Annual reports.

The department shall publish an annual report on the manufacture and distribution of commercial feeds in New Mexico, together with such data on their production and use as the department determines, and a report of the results of the analyses of official samples of commercial feeds sold in New Mexico as compared with the analyses guaranteed in the registration and on the label; provided that the information concerning production and use of commercial feed shall not disclose the operations of any person.

History: Laws 2013, ch. 23, § 17.

ANNOTATIONS

Effective dates. — Laws 2013, ch. 23, § 19 made the New Mexico Commercial Feed Act effective July 1, 2013.

Comments

Commercial Feeds — NMAC 21.18.3 Public Comments

Name: Sage Saffran

Email: ssaffran@nmpf.org

Submitted on: August 6, 2026, 4:33 PM

Comments: New Mexico Department of Agriculture
1050 Stewart Street Las Cruces, NM 88003

To Whom It May Concern,

The National Milk Producers Federation (NMPF) supports amendment to the New Mexico Administrative Code (NMAC) 21.18.3 for Commercial Feeds which would add further warning labels to raw milk being sold as pet food and add approved food coloring to clearly identify the product. Consumption of raw milk and raw milk products has been opposed by every major health organization in the United States, including the American Medical Association and the American Academy of Pediatrics. Multiple studies support the findings that state laws increasing the availability of raw milk are associated with more outbreak-associated illnesses.

Consumption of raw milk and raw milk products is a demonstrated public health risk. The link between raw milk and foodborne illness has been well-documented in the scientific literature, with evidence spanning nearly 100 years. Raw milk is a key vehicle in the transmission of dangerous and sometimes deadly human pathogens, including E. coli O157:H7, Campylobacter, Listeria monocytogenes, and Salmonella.

Raw milk being sold as pet food, does not deter consumers from purchasing for their own consumption. From 2000-2020 there were 13 outbreaks across the eight states where there is a complete ban on raw milk sales for human consumption but permit pet dairy food sales with special labeling. This emphasizes the need for further distinction between raw milk for pet food and raw milk for human consumption. The Centers for Disease Control and Prevention (CDC) and the Food and Drug Administration (FDA) do not support the sale or consumption of raw milk. Detering the sale of raw milk in New Mexico decreases the risk to public health and protects the state’s consumers to the inevitable consequences of falling victim to foodborne illness. No matter how carefully it is produced, raw milk is inherently dangerous. Americans have become ill after consuming raw milk and raw milk products obtained from farms of varying sizes, from cow-share programs, and from licensed, permitted or certified raw milk producers.

Based on a study which analyzed Foodborne Disease Outbreak Surveillance System data from 2013-2018, it was found that jurisdictions where unpasteurized milk sales were allowed were estimated to have 3.2 times more outbreaks and 2.9 times more outbreak-associated illnesses compared with jurisdictions where retail sales were prohibited. Of the 74 single-state outbreaks, 78% occurred in states where the sale of unpasteurized milk was expressly allowed in retail stores, at farmers markets or on the farm where it was produced. Based on data collected between 2009 and 2014, researchers concluded that unpasteurized milk is 840 times more likely to cause food-borne illness than pasteurized milk, and such illnesses have a hospitalization rate 45 times higher than those involving pasteurized dairy products.

Alarmingly, nearly two-thirds of all outbreaks associated with raw milk or raw milk products involve children. The list below is just a handful of the outbreaks that have involved children-

Last year, 21 people, six of which who were under the age of 10, were sickened by E. coli and Campylobacter bacteria after consuming raw milk in Florida. Of those 21 cases, seven were hospitalized.

In October 2023, a Salmonella Typhimurium outbreak sourced to a dairy farm selling raw dairy products in California sickened 171 people. Of the 171 cases, 120 (70%) cases and 18 (82%) of the cases requiring hospitalization were among children and adolescents aged <18 years.

In 2023, outbreaks in Wyoming, Minnesota and Utah all involved children getting sick from E. coli, Campylobacter or Cryptosporidium parvum after drinking raw milk.

In 2022, two 10-month-old infants in Tennessee were infected with shiga toxin-producing Escherichia coli linked to raw milk consumption. The herd where the milk was obtained included 7-10 cows being hand-milked. Health department staff upon completing a site visit observed possible fecal contamination during milking and possible milk storage at higher than recommended temperatures. One infected infant developed hemolytic uremic syndrome (HUS) requiring hemodialysis and hospitalization for 27 days.

In 2018, a dozen Tennessee children experienced an E. coli outbreak with four developing kidney failure. Several of those children spent more than 50 days in the intensive care unit at Tennessee Children's Hospital.

In 2011, five children in California were infected with E. coli O157:H7 after drinking raw milk; three of whom required hospitalization after developing HUS.

It is the responsibility of New Mexico's leaders to make decisions to protect the health of the public, most especially those who are minors and are unable to make fully informed

decisions that could have profound consequences on the rest of their lives. The updates to NMAC 21.18.3 would do that.

One critical aspect of this high-profile issue is the tremendous amount of misinformation that has been disseminated regarding the supposed health benefits of raw milk. It is important to emphasize that no claim related to the health benefits of consuming raw milk has been substantiated in any of the medical literature. The scientific consensus is that raw milk can cause serious illnesses and hospitalizations, as well as result in life-long negative health complications and death.

Another misleading claim is that testing or regulating the sale of raw milk will protect consumers from the risks of raw milk consumption. This is also unfounded. Product testing and no amount of added procedures on-farm can ensure the same level of safety as pasteurization. A sample of a farm's raw milk may come back negative for all bacteria one day and the next sample might be positive. Expanding opportunities for the sale of raw milk sends a signal to consumers that drinking unpasteurized milk is safe when, in fact, the opposite is true.

Nationally, our dairy industry benefits from a very high degree of consumer confidence - confidence built in large part on the excellent food safety record of milk and dairy products. Current statistics estimate only 1-2% of reported foodborne illness outbreaks are attributed to dairy products. However, of those, over 70% have been attributed to raw milk and inappropriately-aged raw milk cheeses. In a 2007 report, the CDC concluded that "State milk regulations and methods for their enforcement should be reviewed and strengthened to minimize hazards of raw milk."

Supporting the sale of raw milk would be a step in the wrong direction and create unnecessary food safety risks for consumers and liability for dairy producers.

While choice is an important value, it should not pre-empt consumers' well-being. To support the sale of raw milk and raw milk products is an unnecessary risk to consumer safety and public health. As such, we support any changes that create a clear distinction between raw milk for pet food and raw milk for human consumption.

Please do not hesitate to contact us with any questions or if we may be of further assistance.

Sincerely,
Sage Saffran
Senior Manager, Special Projects and Strategic Initiatives
National Milk Producers Federation

Please reach out if you have any questions about our sources.

Hearing Sign-In Sheets

COMMERCIAL FEEDS RULEMAKING HEARING

PROJECT:	NMDA Rulemaking	**MEETING DATE:**	August 4, 2026
FACILITATOR:	Tim Darden/Katie Laney	**LOCATION:**	Gerald Thomas Auditorium Las Cruces, NM

NAME	PHONE (OPTIONAL)	EMAIL (OPTIONAL)
No Attendees		

COMMERCIAL FEEDS RULEMAKING HEARING

PROJECT:	NMDA Rulemaking	**MEETING DATE:**	August 6, 2026
FACILITATOR:	Tim Darden/Katie Laney	**LOCATION:**	Albuquerque, NM

NAME	PHONE (OPTIONAL)	EMAIL (OPTIONAL)
No Attendees		

SIGNATURE: In witness whereof, we have caused the seal of the Board of Regents of New Mexico State University to be affixed this 1st day of October 2026, for approval of:

Proposed Repeal and Replacement of the Commercial Feeds Rule, Title 21, Chapter 18, Part 3 of the New Mexico Administrative Code (21.18.3 NMAC).

_____

Ammu Devasthali, Chair
Board of Regents
New Mexico State University

Attest:

_____

Christopher Saucedo, Sec./Treasurer
Board of Regents
New Mexico State University

Board of Regents Meeting
Meeting Date: October 1, 2026
Agenda Item Cover Page

Agenda Item # IX.B

☐ Action Item
☒ Consent Item
☐ Informational Item

Presented By:
Jeff M. Witte
Director/Secretary New Mexico Department of Agriculture (NMDA)

Agenda Item:

Proposed Repeal and Replacement of the Continuing Education Units for Pesticide Applicators Rule, Title 21, Chapter 17, Part 53 of the New Mexico Administrative Code (21.17.53 NMAC)

Requested Action of the Board of Regents:

Approval of Repeal and Replacement of 21.17.53 NMAC, Continuing Education Units for Pesticide Applicators Rule.

Executive Summary:

The New Mexico Department of Agriculture (NMDA) held two hearings regarding the proposed repeal and replacement of 21.17.53 NMAC. On Tuesday, August 4, 2026, at 9 a.m. a public video/telephonic and in-person hearing was held at Gerald Thomas Hall Auditorium (Rm 194), New Mexico State University, located at 940 College Drive in Las Cruces, NM 88003. On Thursday, August 6, 2026, at 9 a.m. an in-person hearing was held at the CNM Workforce Training Center located at 5600 Eagle Rock Ave, NE in Albuquerque, NM 87113.

The Rulemaking Notice was published in the New Mexico Register on June 23, 2026. Notice was provided to the Sunshine Portal, in the Santa Fe New Mexican (both English and Spanish), the Albuquerque Journal, The Las Cruces Sun News, and the NMDA website. Notification and the proposed rule were sent to the New Mexico Economic Development's Small Business Regulatory Advisory Commission and to Legislative Council Service. NMDA has not received findings from either. Notice of public hearings was also sent to pesticide licensed individuals and businesses impacted by the amendments; to the Pest Management Association, a state industry organization representing licensed pesticide applicators; and to the Household Consumer Product Association, a national industry organization representing pesticide manufacturers.

The hearing officer provided the following information for my consideration. I agree with the hearing officer's recommendation and thereby recommend the following for your consideration.

Hearing Officer's Report

This memorandum serves as a summary of the hearings conducted on August 4 and 6, 2026. The information is presented for your review and to assist you in formulating a recommendation to the New Mexico State University Board of Regents regarding the adoption of the proposed repeal and replacement of the Continuing Education Units for Pesticide Applicators Rule, Title 21, Chapter 17, Part 53 of the New Mexico Administrative Code.

Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: updates to definitions; clarification of Continuing Education Unit approval process; addition of Environmental Protection Agency mandated recertification requirements, including the number of Continuing Education Units required for all applicator categories.

Given the extensive outreach that was done and the public comments received in support of the proposed changes, it is my recommendation that the proposed repeal and replacement of 21.17.53 NMAC be adopted without changes.

References:

Section 76-1-2C NMSA 1978, authorizes the board of regents of New Mexico State University, relative to the New Mexico Department of Agriculture, the authority to adopt and file in compliance with the State Rules Act [Chapter 14, Article 4 NMSA 1978], regulations as may be necessary to carry out its duties.

Prior Approvals:

Agenda Item Approved By:

Each office may determine required signatures (if any). All items should be routed through the President's Office, University General Counsel, or the Secretary of NMDA as appropriate.



9/15/2026

Jeff M. Witte — Date
Director/Secretary

RULEMAKING PACKET-
BOARD OF REGENTS

Continuing Education Units for Pesticide Applicators

NMDA
New Mexico Department of Agriculture

Official Record

New Mexico Department of Agriculture

Repeal and Replace 21.17.53 NMAC

NMDA Rulemaking

October 1, 2026

NMDA
New Mexico Department of Agriculture

NMDA Rulemaking
21.17.53 NMAC

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Director/Secretary Recommendation Memo

NEW MEXICO DEPARTMENT OF AGRICULTURE
Office of the Director/Secretary
MSC 3189
New Mexico State University
P.O. Box 30005
Las Cruces, NM 88003-8005
Phone: (575) 649-0505

September 10, 2026

MEMORANDUM

TO: New Mexico State University Board of Regents

FROM: Jeff M. Witte, Director/Secretary

SUBJECT: Recommendation to Adopt the Hearing Officer's Recommendation
RE: New Mexico Department of Agriculture Hearings on Proposed Repeal and Replacement of the Continuing Education Units for Pesticide Applicators Rule, Title 21, Chapter 17, Part 53 of the New Mexico Administrative Code (21.17.53 NMAC) (Attached)

BACKGROUND INFORMATION

The New Mexico Department of agriculture (NMDA) held two hearings regarding the proposed repeal and replacement of 21.17.53 NMAC, Continuing Education Units for Pesticide Applicators. On Tuesday, August 4, 2026, at 9 a.m. a public video/telephonic and in-person hearing was held at Gerald Thomas Hall Auditorium (Rm 194), New Mexico State University, located at 940 College Drive in Las Cruces, NM 88003. On Thursday, August 6, 2026, at 9 a.m. an in-person hearing was held at the CNM Workforce Training Center located at 5600 Eagle Rock Ave, NE in Albuquerque, NM 87113.

The Rulemaking Notice was published in the New Mexico Register on June 23, 2026. Notice was provided to the Sunshine Portal, in the Santa Fe New Mexican (both English and Spanish), the Albuquerque Journal, The Las Cruces Sun News, and the NMDA website. Notification and the proposed rules were sent to the New Mexico Economic Development's Small Business Regulatory Advisory Commission and to Legislative Council Service. NMDA has not received findings from either. Notice of public hearings was also sent to pesticide licensed individuals and businesses impacted by the amendments; to the Pest Management Association, a state industry organization representing licensed pesticide applicators; and to the Household Consumer Product Association, a national industry organization representing pesticide manufacturers.

The hearing officer provided the following information for my consideration. I agree with the hearing officer's recommendation and thereby recommend the following for your consideration.

HEARING OFFICER'S REPORT

This memorandum serves as a summary of the hearings conducted on August 4 and 6, 2026. The information is presented for your review and to assist you in formulating a recommendation to the New Mexico State University Board of Regents regarding the adoption of the proposed repeal and replacement of the Continuing Education Units for Pesticide Applicators Rule, Title 21, Chapter 17, Part 53 of the New Mexico Administrative Code.

Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: updates to definitions; clarification of Continuing Education Unit approval process; addition of Environmental Protection Agency mandated recertification requirements, including the number of Continuing Education Units required for all applicator categories.

Given the extensive outreach that was done and the public comments received in support of the proposed changes, it is my recommendation that the proposed repeal and replacement of 21.17.53 NMAC be adopted without changes.

Initial Proposed Rule

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 17 PEST, DISEASE, AND WEED CONTROL
PART 53 CONTINUING EDUCATION UNITS FOR PESTICIDE APPLICATORS

21.17.53.1 ISSUING AGENCY: New Mexico State University, New Mexico Department of Agriculture
[12/1/1996; 21.17.53.1 NMAC - Rn & A, 21 NMAC 17.53.1, 5/29/2009]
[MSC 3189, Box 30005, Las Cruces, New-Mexico 88003-8005, Telephone No. (575) 646-3007]

21.17.53.2 SCOPE: This rule shall apply to all persons certified to use restricted-use pesticides -- commercial applicators, private applicators, public applicators and non-commercial applicators.
[12/1/1996; 21.17.53.2 NMAC - Rn, 21 NMAC 17.53.2, 5/29/2009]

21.17.53.3 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.
[12/29/1992; 21.17.53.3 NMAC - Rn, 21 NMAC 17.53.3, 5/29/2009]

21.17.53.4 DURATION: Permanent.
[12/1/1996; 21.17.53.4 NMAC - Rn, 21 NMAC 17.53.4, 5/29/2009]

21.17.53.5 EFFECTIVE DATE: [~~December 1, 1996~~] April 01, 2027, unless a different date is cited at the end of a section or paragraph.
[12/1/1996; 21.17.53.5 NMAC - Rn, 21 NMAC 17.53.5, 5/29/2009]

21.17.53.6 OBJECTIVE: The objective of Part 53 of Chapter 17 is to establish the mechanism for granting continuing education units for the recertification of private, commercial, non-commercial and public pesticide applicators.
[12/29/1992; 12/1/1996; 21.17.53.6 NMAC - Rn, 21 NMAC 17.53.6, 5/29/2009]

21.17.53.7 DEFINITIONS:

A. "Continuing education unit" (CEU) means a credit granted for the attendance and successful completion of an approved training or educational workshop or seminar held for the certification or recertification of private, commercial, non-commercial or public pesticide applicators, and pest management consultants with the 7D category on their license.

B. "Certification period" means:

(1) the one year period following the year of issuance of a commercial, public [~~or~~], non-commercial applicator, or pest management consultant license;

(2) the five year period following the year of issuance of a private applicator license.

C. "Recertification training" means workshops, seminars, classes or similar educational forums with instruction on pesticide use approved by the New Mexico department of agriculture (NMDA)[~~.~~] ;

D. "Core education" means training in basic safety, principles of integrated pest management, information on best management practices, and other similar topics as approved by NMDA.
[12/29/1992; 12/1/1996; 21.17.53.7 NMAC - Rn, 21 NMAC 17.53.7, 5/29/2009]

21.17.53.8 RECERTIFICATION: The requirements contained in this section are the minimum required for recertification.

A. All commercial[~~, public and~~] applicators, non-commercial applicators, public applicators, public pest management consultants, and pest management consultants (with a 7D Category) shall be recertified annually following the initial issuance of their license. Applicators and consultants shall recertify by one of the following methods:

(1) Complete the original certification requirements by passing each required examination with a score of 70% or above: or

(2) Participate in approved continuing education courses to accumulate a minimum of four CEUs during the license year, to consist of one CEU in laws and rules, one CEU in Core education topics, and two CEUs in each category covered by their certification, other than Categories 7D, 9, and 10. Applicators certified in category 7D must comply with requirements listed in 21.17.51.8. Applicators certified in Categories 9 or [~~and/or~~] 10

will be recertified in those categories provided they earn the required CEUs in the other categories covered by their certifications.

(3) Consultants, public or private, with a 7D category – participate in approved continuing education courses to accumulate a minimum of four CEUs during the license year in the category 7D as specified in 21.17.51.8.

B. [~~A minimum of four CEUs shall be required for the annual recertification of commercial, public or non-commercial applicators.~~] All operators shall be recertified annually following the issuance of their license. Operators shall recertify by one of the following methods:

(1) Complete the original certification requirements by passing each required examination with a score of 70% or above; or

(2) Participate in approved continuing education courses to accumulate a minimum of three CEUs during the license year, to consist of one CEU in laws and rules and two CEUs in Core education topics and/or category groups. Termite operators must participate in a minimum of four CEUs in the wood destroying pests category to maintain that certification as listed in 21.17.51.8.

C. [~~Private~~] All private applicators shall be recertified every five years following the [~~initial~~] issuance of their [~~certification~~] license. Private applicators shall recertify by one of the following methods:

(1) Complete the original certification requirements by passing each required examination with a score of 70% or above; or

(2) Participate in approved certification education courses to accumulate a minimum of five CEUs during the license period of five years, to consist of two CEUs in laws and rules and three CEUs in Core education topics or category groups related to agricultural pest control.

D. [~~A minimum of five CEUs shall be required for recertification of private applicators.~~] Maximum CEUs: Applicators who earn 10 or more CEUs including one in laws and rules, one in Core education, and eight or more in certification categories will be eligible for certification in all their categories except 7D (Termite and other wood-destroying pests), 11A (Soil fumigation), 11B (Structural fumigation), and 12B (Predator control).

[~~**E.** No more than one CEU per certification period shall be awarded for attendance at product sales meetings.~~

~~**F.** A maximum of one CEU shall be awarded per certification period for approved in-house training programs.~~

~~**G.** The number of hours for recertification contained in this section are the minimum required for general recertification. Recertification in specific categories may require more than these minimums and may be specified in separate regulations relating to specific license categories.~~]

[12/29/1992; 12/1/1996; 21.17.53.8 NMAC - Rn, 21 NMAC 17.53.8, 5/29/2009]

21.17.53.9 APPROVAL OF RECERTIFICATION TRAINING: NMDA shall have final and sole [~~approval of any program seeking CEUs and shall have complete~~] authority in the awarding of CEUs for any approved educational program. CEUs shall be awarded only for core educational topics including safe, effective use of pesticides and the state and federal laws and rules governing pesticide use.

A. Persons seeking approval of educational programs for CEUs shall submit to NMDA for review, at least 15 days prior to the beginning date for the program, information on the program including a copy of the program complete with topics, copies of any handouts or other materials to be used in the program, detailed description of each topic for which CEUs are sought, the length of the presentation per topic, names and qualifications of speakers, and other information required by the director.

B. Persons sponsoring an approved educational program shall allow at least two NMDA employees to attend and monitor the program without payment of any registration fee.

C. Persons sponsoring recertification training shall complete and return to NMDA a copy of the meeting attendance roster no later than 10 days from the last day of the program.

D. One CEU shall be awarded for each hour of approved instruction or training.

E. One CEU shall be the smallest unit awarded.

F. Educational programs that fail to cover the topics submitted for recertification credit shall be subject to revocation of any awarded CEUs.

[12/29/1992; 21.17.53.9 NMAC - Rn, 21 NMAC 17.53.9, 5/29/2009]

21.17.53.10 [~~GROUPING OF LICENSE CATEGORIES~~] CATEGORY GROUPS FOR RECERTIFICATION: [~~Training~~] CEUs for recertification of categories shall be grouped [~~in one of the following~~

~~categories~~]. NMDA shall make the final determination, based on sponsors' descriptions of recertification training, as to what [~~categories~~] category or category group any approved [~~recertification~~] educational program shall apply.

A. [~~pesticide use and safety;~~] Category groups include:

(1) Agricultural CEU group: Categories 1A, 1B, 1C, 2, 6B, PRAP

(2) Ornamental and turf CEU group: Categories 3A, 3B, 2, 6B

(3) Structural CEU group: Categories 7A, 7B

B. [~~wood destroying organisms;~~] CEUs for recertification of the following categories shall not be grouped:

(1) 1D – Aerial application,

(2) 4 – Seed treatment,

(3) 5 – Aquatic pests and weeds,

(4) 6A – Industrial wood preservation,

(5) 7D – Termite and other wood-destroying pests,

(6) 8 – Public health pests,

(7) 11A – Soil fumigation,

(8) 11B – Structural fumigation,

(9) 11C – Rodent burrow fumigation,

(10) 12A – Wildlife pests,

(11) 12B – Predator control, and

(12) 13 – Other limited use.

C. [~~private applicator.~~] Applicators may request a variance from the director in the event that limited training was available for a specific category during the license year. The request shall be made in writing within 30 days after the license expiration date.

[12/29/1992; 12/1/1996; 21.17.53.10 NMAC - Rn, 21 NMAC 17.53.10, 5/29/2009]

21.17.53.11 AWARDING CONTINUING EDUCATION UNITS:

A. One CEU shall be awarded for each hour of approved instruction or training, except for the following.

(1) [~~A half CEU shall be the maximum awarded for any approved product sales meeting.~~] One CEU shall be the maximum awarded for any approved product sales meeting.

(2) One CEU shall be the maximum awarded for any approved in-house training program.

B. One hour of instruction or training shall be equal to at least 45 minutes of contact time. [~~One half hour of instruction or training shall be equal to at least 20 minutes of contact time.~~]

C. [~~A half~~] One CEU shall be the smallest unit awarded.

D. CEUs shall be awarded only for topics relating to the safe effective use of pesticides and the laws and rules governing pesticide use.

E. Persons seeking approval of programs for CEUs shall submit, at least 15 days prior to the beginning date for the meeting, a copy of the program [~~complete with~~] including: 1) topics; 2) short description of each topic; 3) length of presentation per topic; and 4) speakers.

F. Persons seeking approval of programs for CEUs shall allow at least two NMDA employees to attend any training program for purposes of monitoring the training without payment of any registration fee.

G. Persons awarded approval for CEUs for an approved program shall complete and return to NMDA a copy of the meeting attendance roster.

H. Attendance rosters must be [~~post marked~~] submitted to NMDA no later than 10 days from the last day of the training workshop or seminar.

[~~**I.** It shall be the responsibility of the applicator to return all CEU cards to NMDA.~~

~~**J.** For programs where CEU cards are issued, NMDA shall credit CEUs for individual applicators based solely on returned CEU cards.~~]

~~**K.**~~**I.** NMDA may accept CEUs from state or federal agencies on submittal of acceptable documentation.

[12/29/1992; 12/1/1996; 21.17.53.11 NMAC - Rn, 21 NMAC 17.53.11, 5/29/2009]

HISTORY OF 21.17.53 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 92-2, Continuing Education Units for Certified Applicators, filed 12/29/1992.

History of Repealed Material: [RESERVED]

Final Adopted Rule

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 17 PEST, DISEASE, AND WEED CONTROL
PART 53 CONTINUING EDUCATION UNITS FOR PESTICIDE APPLICATORS

21.17.53.1 ISSUING AGENCY: New Mexico State University, New Mexico Department of Agriculture
[12/1/1996; 21.17.53.1 NMAC - Rn & A, 21 NMAC 17.53.1, 5/29/2009]
[MSC 3189, Box 30005, Las Cruces, New-Mexico 88003-8005, Telephone No. (575) 646-3007]

21.17.53.2 SCOPE: This rule shall apply to all persons certified to use restricted-use pesticides -- commercial applicators, private applicators, public applicators and non-commercial applicators.
[12/1/1996; 21.17.53.2 NMAC - Rn, 21 NMAC 17.53.2, 5/29/2009]

21.17.53.3 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.
[12/29/1992; 21.17.53.3 NMAC - Rn, 21 NMAC 17.53.3, 5/29/2009]

21.17.53.4 DURATION: Permanent.
[12/1/1996; 21.17.53.4 NMAC - Rn, 21 NMAC 17.53.4, 5/29/2009]

21.17.53.5 EFFECTIVE DATE: April 01, 2027, unless a different date is cited at the end of a section or paragraph.
[12/1/1996; 21.17.53.5 NMAC - Rn, 21 NMAC 17.53.5, 5/29/2009]

21.17.53.6 OBJECTIVE: The objective of Part 53 of Chapter 17 is to establish the mechanism for granting continuing education units for the recertification of private, commercial, non-commercial and public pesticide applicators.
[12/29/1992; 12/1/1996; 21.17.53.6 NMAC - Rn, 21 NMAC 17.53.6, 5/29/2009]

21.17.53.7 DEFINITIONS:

A. **"Continuing education unit"** (CEU) means a credit granted for the attendance and successful completion of an approved training or educational workshop or seminar held for the certification or recertification of private, commercial, non-commercial or public pesticide applicators, and pest management consultants with the 7D category on their license.

B. **"Certification period"** means:

(1) the one year period following the year of issuance of a commercial, public, non-commercial applicator, or pest management consultant license;

(2) the five year period following the year of issuance of a private applicator license.

C. **"Recertification training"** means workshops, seminars, classes or similar educational forums with instruction on pesticide use approved by the New Mexico department of agriculture (NMDA);

D. **“Core education”** means training in basic safety, principles of integrated pest management, information on best management practices, and other similar topics as approved by NMDA.
[12/29/1992; 12/1/1996; 21.17.53.7 NMAC - Rn, 21 NMAC 17.53.7, 5/29/2009]

21.17.53.8 RECERTIFICATION: The requirements contained in this section are the minimum required for recertification.

A. All commercial applicators, non-commercial applicators, public applicators, public pest management consultants, and pest management consultants (with a 7D Category) shall be recertified annually following the initial issuance of their license. Applicators and consultants shall recertify by one of the following methods:

(1) Complete the original certification requirements by passing each required examination with a score of 70% or above: or

(2) Participate in approved continuing education courses to accumulate a minimum of four CEUs during the license year, to consist of one CEU in laws and rules, one CEU in Core education topics, and two CEUs in each category covered by their certification, other than Categories 7D, 9, and 10. Applicators certified in category 7D must comply with requirements listed in 21.17.51.8. Applicators certified in Categories 9 or 10 will be

recertified in those categories provided they earn the required CEUs in the other categories covered by their certifications.

(3) Consultants, public or private, with a 7D category – participate in approved continuing education courses to accumulate a minimum of four CEUs during the license year in the category 7D as specified in 21.17.51.8.

B. All operators shall be recertified annually following the issuance of their license. Operators shall recertify by one of the following methods:

(1) Complete the original certification requirements by passing each required examination with a score of 70% or above; or

(2) Participate in approved continuing education courses to accumulate a minimum of three CEUs during the license year, to consist of one CEU in laws and rules and two CEUs in Core education topics and/or category groups. Wood destroying pest operators must participate in a minimum of four CEUs in the wood destroying pests category to maintain that certification as listed in 21.17.51.8.

C. All private applicators shall be recertified every five years following the issuance of their license. Private applicators shall recertify by one of the following methods:

(1) Complete the original certification requirements by passing each required examination with a score of 70% or above; or

(2) Participate in approved certification education courses to accumulate a minimum of five CEUs during the license period of five years, to consist of two CEUs in laws and rules and three CEUs in Core education topics or category groups related to agricultural pest control.

D. Maximum CEUs: Applicators who earn 10 or more CEUs including one in laws and rules, one in Core education, and eight or more in certification categories will be eligible for certification in all their categories except 7D (Termite and other wood-destroying pests), 11A (Soil fumigation), 11B (Structural fumigation), and 12B (Predator control).

[12/29/1992; 12/1/1996; 21.17.53.8 NMAC - Rn, 21 NMAC 17.53.8, 5/29/2009]

21.17.53.9 APPROVAL OF RECERTIFICATION TRAINING: NMDA shall have final and sole authority in the awarding of CEUs for any approved educational program. CEUs shall be awarded only for core educational topics including safe, effective use of pesticides and the state and federal laws and rules governing pesticide use.

A. Persons seeking approval of educational programs for CEUs shall submit to NMDA for review, at least 15 days prior to the beginning date for the program, information on the program including a copy of the program complete with topics, copies of any handouts or other materials to be used in the program, detailed description of each topic for which CEUs are sought, the length of the presentation per topic, names and qualifications of speakers, and other information required by the director.

B. Persons sponsoring an approved educational program shall allow at least two NMDA employees to attend and monitor the program without payment of any registration fee.

C. Persons sponsoring recertification training shall complete and return to NMDA a copy of the meeting attendance roster no later than 10 days from the last day of the program.

D. One CEU shall be awarded for each hour of approved instruction or training.

E. One CEU shall be the smallest unit awarded.

F. Educational programs that fail to cover the topics submitted for recertification credit shall be subject to revocation of any awarded CEUs.

[12/29/1992; 21.17.53.9 NMAC - Rn, 21 NMAC 17.53.9, 5/29/2009]

21.17.53.10 CATEGORY GROUPS FOR RECERTIFICATION: CEUs for recertification of categories shall be grouped. NMDA shall make the final determination, based on sponsors' descriptions of recertification training, as to what category or category group any approved educational program shall apply.

A. Category groups include:

(1) Agricultural CEU group: Categories 1A, 1B, 1C, 2, 6B, PRAP

(2) Ornamental and turf CEU group: Categories 3A, 3B, 2, 6B

(3) Structural CEU group: Categories 7A, 7B

B. CEUs for recertification of the following categories shall not be grouped:

(1) 1D – Aerial application,

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(9) 11C – Rodent burrow fumigation,
(10) 12A – Wildlife pests,
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(12) 13 – Other limited use.

C. Applicators may request a variance from the director in the event that limited training was available for a specific category during the license year. The request shall be made in writing within 30 days after the license expiration date.

[12/29/1992; 12/1/1996; 21.17.53.10 NMAC - Rn, 21 NMAC 17.53.10, 5/29/2009]

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A. One CEU shall be awarded for each hour of approved instruction or training, except for the following.

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B. One hour of instruction or training shall be equal to at least 45 minutes of contact time.

C. One CEU shall be the smallest unit awarded.

D. CEUs shall be awarded only for topics relating to the safe effective use of pesticides and the laws and rules governing pesticide use.

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HISTORY OF 21.17.53 NMAC:

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History of Repealed Material: [RESERVED]

Hearing Officer Recommendation Memo

NEW MEXICO DEPARTMENT OF AGRICULTURE
Office of the Director/Secretary
MSC 3189
New Mexico State University
P.O. Box 30005
Las Cruces, NM 88003-8005
Phone: (575) 649-0505

September 4, 2026

MEMORANDUM

TO: Director/Secretary Jeff M. Witte

FROM: Les Owen, Deputy Director – Hearing Officer

SUBJECT: Hearing Officer Report – RE: New Mexico Department of Agriculture Hearing on Proposed Repeal and Replacement of 21.17.53 NMAC, Continuing Education Units for Pesticide Applicators.

BACKGROUND INFORMATION

The New Mexico Department of agriculture (NMDA) held two hearings regarding the proposed repeal and replacement of 21.17.53 NMAC, Continuing Education Units for Pesticide Applicators. On Tuesday, August 4, 2026, at 9 a.m. a public video/telephonic and in-person hearing was held at Gerald Thomas Hall Auditorium (Rm 194), New Mexico State University, located at 940 College Drive in Las Cruces, NM 88003. On Thursday, August 6, 2026, at 9 a.m. an in-person hearing was held at the CNM Workforce Training Center located at 5600 Eagle Rock Ave, NE in Albuquerque, NM 87113.

The Rulemaking Notice was published in the New Mexico Register on June 23, 2026. Notice was provided to the Sunshine Portal, in the Santa Fe New Mexican (both English and Spanish), the Albuquerque Journal, The Las Cruces Sun News, and the NMDA website. Notification and the proposed rules were sent to the New Mexico Economic Development's Small Business Regulatory Advisory Commission and to Legislative Council Service. NMDA has not received findings from either. Notice of public hearings was also sent to pesticide licensed individuals and businesses impacted by the amendments; to the Pest Management Association, a state industry organization representing licensed pesticide applicators; and to the Household Consumer Product Association, a national industry organization representing pesticide manufacturers.

The hearing officer provides the following information for consideration by NMDA's director/secretary.

SUMMARY OF PRIMARY PROPOSED RULE CHANGES

Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: updates to definitions; clarification of Continuing Education Unit approval process; addition of Environmental Protection Agency mandated recertification requirements, including the number of Continuing Education Units required for all applicator categories.

See Exhibit 1 for the strikethrough version of 21.17.53 NMAC, Continuing Education Units for Pesticide Applicators and Exhibit 2 for the rule with integrated changes that these hearings cover.

PUBLIC COMMENT

There were 8 virtual and 1 in-person participants at the hearing held in Las Cruces and 5 in-person at the Albuquerque hearing. No written public comments were received. Two oral comments were received at the hearings as detailed below.

Teri Cates, owner of TLC Pest Control and Vice President of the Pest management Association and the State Policy Affairs Representative for the industry expressed support for the rule change as long overdue at the Las Cruces hearing.

Alan Feuer, a Certified Applicator, provided support at the Albuquerque hearing for updating testing, certification and recertification requirements contained in the rule. He added changes were far overdue.

HEARING OFFICER'S CONCLUSION

This memorandum serves as a summary of the hearings conducted on August 4 and 6, 2026. The information is presented for your review and to assist you in formulating a recommendation to the New Mexico State University Board of Regents regarding the adoption of the proposed repeal and replacement of the Continuing Education Units for Pesticide Applicators Rule, Title 21, Chapter 17, Part 53 of the New Mexico Administrative Code.

Given the extensive outreach that was done and the public comments received in support of the proposed changes, it is my recommendation that the proposed repeal and replacement of 21.17.53 NMAC be adopted without changes.

Please contact me if you have any questions.

EXHIBIT 1

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 17 PEST, DISEASE, AND WEED CONTROL
PART 53 CONTINUING EDUCATION UNITS FOR PESTICIDE APPLICATORS

21.17.53.1 ISSUING AGENCY: New Mexico State University, New Mexico Department of Agriculture
[12/1/1996; 21.17.53.1 NMAC - Rn & A, 21 NMAC 17.53.1, 5/29/2009]
[MSC 3189, Box 30005, Las Cruces, New-Mexico 88003-8005, Telephone No. (575) 646-3007]

21.17.53.2 SCOPE: This rule shall apply to all persons certified to use restricted-use pesticides -- commercial applicators, private applicators, public applicators and non-commercial applicators.
[12/1/1996; 21.17.53.2 NMAC - Rn, 21 NMAC 17.53.2, 5/29/2009]

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21.17.53.4 DURATION: Permanent.
[12/1/1996; 21.17.53.4 NMAC - Rn, 21 NMAC 17.53.4, 5/29/2009]

21.17.53.5 EFFECTIVE DATE: [~~December 1, 1996~~] April 01, 2027, unless a different date is cited at the end of a section or paragraph.
[12/1/1996; 21.17.53.5 NMAC - Rn, 21 NMAC 17.53.5, 5/29/2009]

21.17.53.6 OBJECTIVE: The objective of Part 53 of Chapter 17 is to establish the mechanism for granting continuing education units for the recertification of private, commercial, non-commercial and public pesticide applicators.
[12/29/1992; 12/1/1996; 21.17.53.6 NMAC - Rn, 21 NMAC 17.53.6, 5/29/2009]

21.17.53.7 DEFINITIONS:

A. "Continuing education unit" (CEU) means a credit granted for the attendance and successful completion of an approved training or educational workshop or seminar held for the certification or recertification of private, commercial, non-commercial or public pesticide applicators, and pest management consultants with the 7D category on their license.

B. "Certification period" means:

(1) the one year period following the year of issuance of a commercial, public [~~or~~], non-commercial applicator, or pest management consultant license;

(2) the five year period following the year of issuance of a private applicator license.

C. "Recertification training" means workshops, seminars, classes or similar educational forums with instruction on pesticide use approved by the New Mexico department of agriculture (NMDA)[~~.~~] ;

D. "Core education" means training in basic safety, principles of integrated pest management, information on best management practices, and other similar topics as approved by NMDA.
[12/29/1992; 12/1/1996; 21.17.53.7 NMAC - Rn, 21 NMAC 17.53.7, 5/29/2009]

21.17.53.8 RECERTIFICATION: The requirements contained in this section are the minimum required for recertification.

A. All commercial[~~, public and~~] applicators, non-commercial applicators, public applicators, public pest management consultants, and pest management consultants (with a 7D Category) shall be recertified annually following the initial issuance of their license. Applicators and consultants shall recertify by one of the following methods:

(1) Complete the original certification requirements by passing each required examination with a score of 70% or above: or

(2) Participate in approved continuing education courses to accumulate a minimum of four CEUs during the license year, to consist of one CEU in laws and rules, one CEU in Core education topics, and two CEUs in each category covered by their certification, other than Categories 7D, 9, and 10. Applicators certified in category 7D must comply with requirements listed in 21.17.51.8. Applicators certified in Categories 9 or [~~and/or~~] 10 will be recertified in those categories provided they earn the required CEUs in the other categories covered by their certifications.

(3) Consultants, public or private, with a 7D category – participate in approved continuing education courses to accumulate a minimum of four CEUs during the license year in the category 7D as specified in 21.17.51.8.

B. [~~A minimum of four CEUs shall be required for the annual recertification of commercial, public or non-commercial applicators.~~] All operators shall be recertified annually following the issuance of their license. Operators shall recertify by one of the following methods:

(1) Complete the original certification requirements by passing each required examination with a score of 70% or above; or

(2) Participate in approved continuing education courses to accumulate a minimum of three CEUs during the license year, to consist of one CEU in laws and rules and two CEUs in Core education topics and/or category groups. Termite operators must participate in a minimum of four CEUs in the wood destroying pests category to maintain that certification as listed in 21.17.51.8.

C. [~~Private~~] All private applicators shall be recertified every five years following the [~~initial~~] issuance of their [~~certification~~] license. Private applicators shall recertify by one of the following methods:

(1) Complete the original certification requirements by passing each required examination with a score of 70% or above; or

(2) Participate in approved certification education courses to accumulate a minimum of five CEUs during the license period of five years, to consist of two CEUs in laws and rules and three CEUs in Core education topics or category groups related to agricultural pest control.

D. [~~A minimum of five CEUs shall be required for recertification of private applicators.~~] Maximum CEUs: Applicators who earn 10 or more CEUs including one in laws and rules, one in Core education, and eight or more in certification categories will be eligible for certification in all their categories except 7D (Termite and other wood-destroying pests), 11A (Soil fumigation), 11B (Structural fumigation), and 12B (Predator control).

[~~**E.** No more than one CEU per certification period shall be awarded for attendance at product sales meetings.~~

~~**F.** A maximum of one CEU shall be awarded per certification period for approved in-house training programs.~~

~~**G.** The number of hours for recertification contained in this section are the minimum required for general recertification. Recertification in specific categories may require more than these minimums and may be specified in separate regulations relating to specific license categories.~~]

[12/29/1992; 12/1/1996; 21.17.53.8 NMAC - Rn, 21 NMAC 17.53.8, 5/29/2009]

21.17.53.9 APPROVAL OF RECERTIFICATION TRAINING: NMDA shall have final and sole [~~approval of any program seeking CEUs and shall have complete~~] authority in the awarding of CEUs for any approved educational program. CEUs shall be awarded only for core educational topics including safe, effective use of pesticides and the state and federal laws and rules governing pesticide use.

A. Persons seeking approval of educational programs for CEUs shall submit to NMDA for review, at least 15 days prior to the beginning date for the program, information on the program including a copy of the program complete with topics, copies of any handouts or other materials to be used in the program, detailed description of each topic for which CEUs are sought, the length of the presentation per topic, names and qualifications of speakers, and other information required by the director.

B. Persons sponsoring an approved educational program shall allow at least two NMDA employees to attend and monitor the program without payment of any registration fee.

C. Persons sponsoring recertification training shall complete and return to NMDA a copy of the meeting attendance roster no later than 10 days from the last day of the program.

D. One CEU shall be awarded for each hour of approved instruction or training.

E. One CEU shall be the smallest unit awarded.

F. Educational programs that fail to cover the topics submitted for recertification credit shall be subject to revocation of any awarded CEUs.

[12/29/1992; 21.17.53.9 NMAC - Rn, 21 NMAC 17.53.9, 5/29/2009]

21.17.53.10 [~~GROUPING OF LICENSE CATEGORIES~~] CATEGORY GROUPS FOR RECERTIFICATION: [~~Training~~] CEUs for recertification of categories shall be grouped [~~in one of the following categories~~]. NMDA shall make the final determination, based on sponsors' descriptions of recertification training, as to what [~~categories~~] category or category group any approved [~~recertification~~] educational program shall apply.

A. [~~pesticide use and safety;~~] Category groups include:

(1) Agricultural CEU group: Categories 1A, 1B, 1C, 2, 6B, PRAP

(2) Ornamental and turf CEU group: Categories 3A, 3B, 2, 6B

(3) Structural CEU group: Categories 7A, 7B

B. [~~wood destroying organisms;~~] CEUs for recertification of the following categories shall not be grouped:

(1) 1D – Aerial application,

(2) 4 – Seed treatment,

(3) 5 – Aquatic pests and weeds,

(4) 6A – Industrial wood preservation,

(5) 7D – Termite and other wood-destroying pests,

(6) 8 – Public health pests,

(7) 11A – Soil fumigation,

(8) 11B – Structural fumigation,

(9) 11C – Rodent burrow fumigation,

(10) 12A – Wildlife pests,

(11) 12B – Predator control, and

(12) 13 – Other limited use.

C. [~~private applicator.~~] Applicators may request a variance from the director in the event that limited training was available for a specific category during the license year. The request shall be made in writing within 30 days after the license expiration date.

[12/29/1992; 12/1/1996; 21.17.53.10 NMAC - Rn, 21 NMAC 17.53.10, 5/29/2009]

21.17.53.11 AWARDING CONTINUING EDUCATION UNITS:

A. One CEU shall be awarded for each hour of approved instruction or training, except for the following.

(1) [~~A half CEU shall be the maximum awarded for any approved product sales meeting.~~] One CEU shall be the maximum awarded for any approved product sales meeting.

(2) One CEU shall be the maximum awarded for any approved in-house training program.

B. One hour of instruction or training shall be equal to at least 45 minutes of contact time. [~~One-half hour of instruction or training shall be equal to at least 20 minutes of contact time.~~]

C. [~~A half~~] One CEU shall be the smallest unit awarded.

D. CEUs shall be awarded only for topics relating to the safe effective use of pesticides and the laws and rules governing pesticide use.

E. Persons seeking approval of programs for CEUs shall submit, at least 15 days prior to the beginning date for the meeting, a copy of the program [~~complete with~~] including: 1) topics; 2) short description of each topic; 3) length of presentation per topic; and 4) speakers.

F. Persons seeking approval of programs for CEUs shall allow at least two NMDA employees to attend any training program for purposes of monitoring the training without payment of any registration fee.

G. Persons awarded approval for CEUs for an approved program shall complete and return to NMDA a copy of the meeting attendance roster.

H. Attendance rosters must be [~~post-marked~~] submitted to NMDA no later than 10 days from the last day of the training workshop or seminar.

[~~**I.** It shall be the responsibility of the applicator to return all CEU cards to NMDA.~~

~~**J.** For programs where CEU cards are issued, NMDA shall credit CEUs for individual applicators based solely on returned CEU cards.~~]

~~**K.**~~**I.** NMDA may accept CEUs from state or federal agencies on submittal of acceptable documentation.

[12/29/1992; 12/1/1996; 21.17.53.11 NMAC - Rn, 21 NMAC 17.53.11, 5/29/2009]

HISTORY OF 21.17.53 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 92-2, Continuing Education Units for Certified Applicators, filed 12/29/1992.

History of Repealed Material: [RESERVED]

EXHIBIT 2

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 17 PEST, DISEASE, AND WEED CONTROL
PART 53 CONTINUING EDUCATION UNITS FOR PESTICIDE APPLICATORS

21.17.53.1 ISSUING AGENCY: New Mexico State University, New Mexico Department of Agriculture
[12/1/1996; 21.17.53.1 NMAC - Rn & A, 21 NMAC 17.53.1, 5/29/2009]
[MSC 3189, Box 30005, Las Cruces, New-Mexico 88003-8005, Telephone No. (575) 646-3007]

21.17.53.2 SCOPE: This rule shall apply to all persons certified to use restricted-use pesticides -- commercial applicators, private applicators, public applicators and non-commercial applicators.
[12/1/1996; 21.17.53.2 NMAC - Rn, 21 NMAC 17.53.2, 5/29/2009]

21.17.53.3 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.
[12/29/1992; 21.17.53.3 NMAC - Rn, 21 NMAC 17.53.3, 5/29/2009]

21.17.53.4 DURATION: Permanent.
[12/1/1996; 21.17.53.4 NMAC - Rn, 21 NMAC 17.53.4, 5/29/2009]

21.17.53.5 EFFECTIVE DATE: April 01, 2027, unless a different date is cited at the end of a section or paragraph.
[12/1/1996; 21.17.53.5 NMAC - Rn, 21 NMAC 17.53.5, 5/29/2009]

21.17.53.6 OBJECTIVE: The objective of Part 53 of Chapter 17 is to establish the mechanism for granting continuing education units for the recertification of private, commercial, non-commercial and public pesticide applicators.
[12/29/1992; 12/1/1996; 21.17.53.6 NMAC - Rn, 21 NMAC 17.53.6, 5/29/2009]

21.17.53.7 DEFINITIONS:

A. **"Continuing education unit"** (CEU) means a credit granted for the attendance and successful completion of an approved training or educational workshop or seminar held for the certification or recertification of private, commercial, non-commercial or public pesticide applicators, and pest management consultants with the 7D category on their license.

B. **"Certification period"** means:

(1) the one year period following the year of issuance of a commercial, public, non-commercial applicator, or pest management consultant license;

(2) the five year period following the year of issuance of a private applicator license.

C. **"Recertification training"** means workshops, seminars, classes or similar educational forums with instruction on pesticide use approved by the New Mexico department of agriculture (NMDA);

D. **“Core education”** means training in basic safety, principles of integrated pest management, information on best management practices, and other similar topics as approved by NMDA.
[12/29/1992; 12/1/1996; 21.17.53.7 NMAC - Rn, 21 NMAC 17.53.7, 5/29/2009]

21.17.53.8 RECERTIFICATION: The requirements contained in this section are the minimum required for recertification.

A. All commercial applicators, non-commercial applicators, public applicators, public pest management consultants, and pest management consultants (with a 7D Category) shall be recertified annually following the initial issuance of their license. Applicators and consultants shall recertify by one of the following methods:

(1) Complete the original certification requirements by passing each required examination with a score of 70% or above: or

(2) Participate in approved continuing education courses to accumulate a minimum of four CEUs during the license year, to consist of one CEU in laws and rules, one CEU in Core education topics, and two CEUs in each category covered by their certification, other than Categories 7D, 9, and 10. Applicators certified in category 7D must comply with requirements listed in 21.17.51.8. Applicators certified in Categories 9 or 10 will be recertified in those categories provided they earn the required CEUs in the other categories covered by their certifications.

(3) Consultants, public or private, with a 7D category – participate in approved continuing education courses to accumulate a minimum of four CEUs during the license year in the category 7D as specified in 21.17.51.8.

B. All operators shall be recertified annually following the issuance of their license. Operators shall recertify by one of the following methods:

(1) Complete the original certification requirements by passing each required examination with a score of 70% or above; or

(2) Participate in approved continuing education courses to accumulate a minimum of three CEUs during the license year, to consist of one CEU in laws and rules and two CEUs in Core education topics and/or category groups. Termite operators must participate in a minimum of four CEUs in the wood destroying pests category to maintain that certification as listed in 21.17.51.8.

C. All private applicators shall be recertified every five years following the issuance of their license. Private applicators shall recertify by one of the following methods:

(1) Complete the original certification requirements by passing each required examination with a score of 70% or above; or

(2) Participate in approved certification education courses to accumulate a minimum of five CEUs during the license period of five years, to consist of two CEUs in laws and rules and three CEUs in Core education topics or category groups related to agricultural pest control.

D. Maximum CEUs: Applicators who earn 10 or more CEUs including one in laws and rules, one in Core education, and eight or more in certification categories will be eligible for certification in all their categories except 7D (Termite and other wood-destroying pests), 11A (Soil fumigation), 11B (Structural fumigation), and 12B (Predator control).

[12/29/1992; 12/1/1996; 21.17.53.8 NMAC - Rn, 21 NMAC 17.53.8, 5/29/2009]

21.17.53.9 APPROVAL OF RECERTIFICATION TRAINING: NMDA shall have final and sole authority in the awarding of CEUs for any approved educational program. CEUs shall be awarded only for core educational topics including safe, effective use of pesticides and the state and federal laws and rules governing pesticide use.

A. Persons seeking approval of educational programs for CEUs shall submit to NMDA for review, at least 15 days prior to the beginning date for the program, information on the program including a copy of the program complete with topics, copies of any handouts or other materials to be used in the program, detailed description of each topic for which CEUs are sought, the length of the presentation per topic, names and qualifications of speakers, and other information required by the director.

B. Persons sponsoring an approved educational program shall allow at least two NMDA employees to attend and monitor the program without payment of any registration fee.

C. Persons sponsoring recertification training shall complete and return to NMDA a copy of the meeting attendance roster no later than 10 days from the last day of the program.

D. One CEU shall be awarded for each hour of approved instruction or training.

E. One CEU shall be the smallest unit awarded.

F. Educational programs that fail to cover the topics submitted for recertification credit shall be subject to revocation of any awarded CEUs.

[12/29/1992; 21.17.53.9 NMAC - Rn, 21 NMAC 17.53.9, 5/29/2009]

21.17.53.10 CATEGORY GROUPS FOR RECERTIFICATION: CEUs for recertification of categories shall be grouped. NMDA shall make the final determination, based on sponsors' descriptions of recertification training, as to what category or category group any approved educational program shall apply.

A. Category groups include:

(1) Agricultural CEU group: Categories 1A, 1B, 1C, 2, 6B, PRAP

(2) Ornamental and turf CEU group: Categories 3A, 3B, 2, 6B

(3) Structural CEU group: Categories 7A, 7B

B. CEUs for recertification of the following categories shall not be grouped:

(1) 1D – Aerial application,

(2) 4 – Seed treatment,

(3) 5 – Aquatic pests and weeds,

(4) 6A – Industrial wood preservation,

(5) 7D – Termite and other wood-destroying pests,

(6) 8 – Public health pests,

(7) 11A – Soil fumigation,

(8) 11B – Structural fumigation,

(9) 11C – Rodent burrow fumigation,

(10) 12A – Wildlife pests,

(11) 12B – Predator control, and

(12) 13 – Other limited use.

C. Applicators may request a variance from the director in the event that limited training was available for a specific category during the license year. The request shall be made in writing within 30 days after the license expiration date.

[12/29/1992; 12/1/1996; 21.17.53.10 NMAC - Rn, 21 NMAC 17.53.10, 5/29/2009]

21.17.53.11 AWARDING CONTINUING EDUCATION UNITS:

A. One CEU shall be awarded for each hour of approved instruction or training, except for the following.

(1) One CEU shall be the maximum awarded for any approved product sales meeting.

(2) One CEU shall be the maximum awarded for any approved in-house training program.

B. One hour of instruction or training shall be equal to at least 45 minutes of contact time.

C. One CEU shall be the smallest unit awarded.

D. CEUs shall be awarded only for topics relating to the safe effective use of pesticides and the laws and rules governing pesticide use.

E. Persons seeking approval of programs for CEUs shall submit, at least 15 days prior to the beginning date for the meeting, a copy of the program including: 1) topics; 2) short description of each topic; 3) length of presentation per topic; and 4) speakers.

F. Persons seeking approval of programs for CEUs shall allow at least two NMDA employees to attend any training program for purposes of monitoring the training without payment of any registration fee.

G. Persons awarded approval for CEUs for an approved program shall complete and return to NMDA a copy of the meeting attendance roster.

H. Attendance rosters must be submitted to NMDA no later than 10 days from the last day of the training workshop or seminar.

I. NMDA may accept CEUs from state or federal agencies on submittal of acceptable documentation.

[12/29/1992; 12/1/1996; 21.17.53.11 NMAC - Rn, 21 NMAC 17.53.11, 5/29/2009]

HISTORY OF 21.17.53 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 92-2, Continuing Education Units for Certified Applicators, filed 12/29/1992.

History of Repealed Material: [RESERVED]

Hearing Transcript - August 4, 2026

New Mexico Department of Agriculture

Rulemaking Public Hearing

Moderated by Les Owen, Deputy Director NMDA

Tuesday, August 4, 2026

9:05 a.m.

Gerald Thomas Hall Auditorium

940 College Drive, Room 194

Las Cruces, NM 88003

Reported by: Ryan Auten

JOB NO: 8263995

A P P E A R A N C E S

List of Attendees:

Les Owen, Deputy Director NMDA

Stephen Baca, Assistant Director - Agricultural Environmental Services

Ryan Hiles, Assistant Director - Agricultural Environmental Services

Tony Marquez, Director of Information Technology - New Mexico Department of Agriculture

Teri Cates, Owner TLC Pest Control, VP - New Mexico Pest Management Association

C. Benevidez, Attendee (by videoconference)

Courtenay, Attendee (by videoconference)

Kyleigh Serna, Attendee (by videoconference)

Micah Meyer, Attendee (by videoconference)

N. Busse, Attendee (by videoconference)

T. Thompson, Attendee (by videoconference)

Tyler Leslie, Rehm's Nursery (by videoconference)

Veronica, Attendee (by videoconference)

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 following rules: Japanese Beetle Exterior Quarantine, 21.27.27 [sic] of the New Mexico Administrative Code; Control of Wood Destroying Pests, 21.17.51 of the New Mexico Administrative Code; Continuing Education Units for Pesticide Applicators, 21.17.53 of the New Mexico Administrative Code; Restricted-Use Pesticides, 21.17.56 of the New Mexico Administrative Code; and M-44 Capsules in the Livestock Protection Collar, 21.17.57 of the New Mexico Administrative Code. Additionally, this hearing will address the proposed amendments to the Pesticides Rule 21.17.50 of the New Mexico Administrative Code.

My name is Les Owen. I am the deputy director for 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 rules and procedural steps were made available as you walked in.

The day and date is Tuesday, August 4, 2026, and the time is approximately 9:05 a.m. This

hearing is being held in person and virtually via internet link in New Mexico State University's Gerald Thomas Hall Auditorium, located at 940 College Drive, Las Cruces, New Mexico. This is the published date, time, and location for this hearing.

In accordance to state law, public notices for this hearing were published as follows: The New Mexico Register published June 23, 2026; Las Cruces Sun News, June 23, 2026; the Santa Fe, New Mexican, June 23, 2026, in English and Spanish; and the Albuquerque Journal, June 23, 2026. Notices were also published -- were also posted on New Mexico Department of Agriculture's website, New Mexico Sunshine Portal, and made available at New Mexico Department of Agriculture's main office in Las Cruces.

Additionally, notifications were sent to the New Mexico Economic Development Small Business Regulatory Advisory Commission for comment and to Legislative Counsel Service. Copies of the proposed replacement rules and amended rule were made available on New Mexico Department of Agriculture's website.

This hearing is being recorded and either a transcript of today's hearing or the recording will be available from New Mexico Department of Agriculture's website. Following a summary of

major points within each proposed six rules, the public will be provided with an opportunity to permit -- to present testimony. Testimony should be relevant to the proposed rules or amendments.

The first of six rules addressed in this hearing is the proposed repeal and replacement of the Japanese Beetle Exterior Quarantine Rule. Mr. Hiles will now provide a summary of proposed primary points included in the rule.

MR. HILES: Good morning. I am Ryan Hiles, an assistant division director with the New Mexico Department of Agriculture. The Japanese Beetle Exterior Quarantine Rule, 21.17.27 of the New Mexico Administrative Code, was promulgated under the authority of the Pest Control Act 76.6.1 of New Mexico Statutes to address risks associated with importing Japanese beetle into New Mexico through the importation of plant/nursery stock.

Extensive proposed amendments to the Japanese beetle exterior quarantine rule necessitated the repeal and replacement of the existing rule. Major points addressed include additional definitions for clarification purposes, requirement for nurseries exporting plants to New Mexico to comply with restrictions outlined in New Mexico Department of

Agriculture-issued compliance agreement, expansion of quarantined areas to include all U.S. states and specific Canadian provinces, requirements for smaller pots containing non-gramineous nursery stock to be treated prior to export to New Mexico, and provide states a pathway to include multiple nurseries to be covered under one compliance agreement.

MR. OWEN: Thank you, Mr. Hiles.

As of August 1, 2026, the New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Japanese Beetle Exterior Quarantine.

For those of you in the room, please raise your hand and wait until I call on you. For those participating through Zoom, please use the "Raise Hand" feature, and you will be -- you will then be unmuted. Begin your comment by stating your name and affiliation for the record. Your comment should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

Is there anyone else wishing to comment?

Seeing none, I will close the public

oral comment period for the proposed Japanese Beetle Exterior Quarantine Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website.

The second rule addressed during this hearing is the proposed repeal and replacement of the Control of Wood Destroying Pests rule. Mr. Baca will present a summary of major points contained in this proposed replacement rule.

MR. BACA: Good morning. I am Steve Baca, an assistant division director with New Mexico Department of Agriculture. The Control of Wood Destroying Pests Rule, 21.17.51 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.4.1-39 of

New Mexico Statutes to address regulatory requirements related to pesticide applicators involved in the control of wood-destroying pests.

Although amendments to the existing Control of Wood Destroying Pests Rule are few, format updates necessitated the repeal and replacement of the existing rule. Major points addressed in the proposed rule include updating, noting that not all termiticides are restricted-use products, alignment of terms with those used in the Pesticide Control Act, and clarification of license types that require supervision while applying pesticide -- insecticides.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Control of Wood Destroying Pests Rule.

For those of you in the room, please raise your hand and wait until I call on you. For those participating through Zoom, please use the raise your hand feature, and you will be unmuted. Begin your comment by stating your name and affiliation for the record. Your comment should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

Is there anyone else wishing to comment?

Seeing none, I will close the -- the public oral comment period for the proposed Wood Destroying Pests Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website.

The third rule addressed in this hearing is the proposed repeal and replacement of the Continuing Education Units for Pesticide Applicators Rule. Mr. Baca will present a summary of major points contained in this proposed replacement rule.

MR. BACA: I'm Steve Baca, an assistant

division director with the New Mexico Department of Agriculture. The Continuing Education Units for Pesticide Applicators Rule, 21.17.53 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.1.4 1-39 [sic] of the New Mexico Statutes to address Environmental Protection Agency-required updates relevant to continuing education requirements for pesticide applicators.

Extensive proposed changes and format updates necessitated a repeal and replacement process for this rule. Major points proposed in the replacement rule include definition updates, clarification of continuing education units approval process, addition of Environmental Protection Agency mandated re-certification requirements, and addition of new environmental protection agency pesticide applicator categories.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed continuing education units for pesticide applicators rule.

For those of you in the room, please

raise your hand and wait until I call on you. For those participating through Zoom, please use the raise your hand feature, and you will be unmuted. Begin your comment by stating your name and affiliation for the record. Your comments should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments. Yes.

MS. CATES: [Unintelligible response.]

MR. OWEN: Great. Thank you.

Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Continuing Education Units for Pesticide Applicators Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be

available from New Mexico Department of Agriculture's website.

Oh.

UNIDENTIFIED SPEAKER: Now if you use this microphone, he should be able to hear you.

MS. CATES: My name is Teri Cates. I am the owner-operator of TLC Pest Control, as well as the current vice president of New Mexico Pest Management Association and the State Policy Affairs Representative for the industry -- the pest control industry in the state of New Mexico. I'm here today to support the rule change, as it is much needed and long overdue.

MR. OWEN: Great. Thank you.

The fourth rule addressed in this hearing is the proposed repeal and replacement of the Restricted-Use Pesticides Rule. Mr. Baca will present a summary of major points contained in the proposed rule replacement.

MR. BACA: I'm Steve Baca, an assistant division director with New Mexico Department of Agriculture. The Restricted-Use Pesticides Rule, 21.17.56 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.4.1-39 of New Mexico Statutes to

address regulations relevant to the purchase, sale, use, and record retention of restricted-use pesticides.

Although proposed amendments to the existing Restricted-Use Pesticide Rule are few, format updates necessitated the repeal and replacement of the current rule. The major point addressed in the proposed rule is a revision of pesticide records requirements to ensure compliance with Environmental Protection Agency mandates.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed Restricted-Use Pesticides Rule.

For those of you in the room, please raise your hand and wait till I call on you. For those participating through Zoom, please use the "Raise Hand" feature, and you will be unmuted. Begin your comments by stating your name and affiliation for the record. Your comments should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

Okay. Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Restricted-Use Pesticides Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website.

The fifth rule addressed in this hearing is the proposed repeal and replacement of the M-44 and the Livestock Protection Collar Rule. Mr. Baca will present a summary of major points contained in the proposed replacement rule.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture. The M-44 and the Livestock Protection -- Protection Collar Rule, 21.17.57 of the

New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.4.1-39 of New Mexico Statutes to address regulations relevant to the purchase, sale, use, accident reporting, and record retention of M-44s and livestock protection collars.

Although proposed amendments to the existing M-44 and the Livestock Protection Collar Rule are few, format updates necessitated the repeal and replacement of the existing rule. Major points addressed in the proposed replacement rule include clarification of prospective license -- licensee qualifications, updating of records requirements, and harmonization of rule language with product labels.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed M-44 and Livestock Protection Collar Rule.

For those of you in the room, please raise your hand and wait until I call on you. For those participating through Zoom, please use the "Raise Hand" feature, and you will be unmuted. Begin your comment by stating your name and affiliation for

the record. Your comments should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed M-44 and -- and the Livestock Protection Collar Rule. Written comments will be accept until -- accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website.

The last rule addressed in this hearing are proposed amendments to the Pesticides Rule. Mr. Baca will present a summary of major points contained in the proposed rule amendments.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture. The Pesticides Rule, 21.17.50 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.4.1-39 of New Mexico Statutes to address regulations relevant to the sale of pesticides, purchase, use, licensing, and record requirements by commercial pesticide applicators and individuals using restricted-use pesticides, and identifying pesticide applicator licensing categories.

The majority of proposed amendments to the Pesticides Rule are Environmental Protection Agency-mandated updates. These updates include changes in examination requirements, record requirement enhancements, new pesticide applicator categories, and minimum age establishment for applicators.

Additionally, proposed amendments include general language cleanup, increase in minimal insurance requirements, definition updates, and clarification to operators' training permits.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received no written

comments. We'll now open the floor for comments directed at the proposed Pesticides Rule.

For those of you in the room, please raise your hand and I will -- and wait until I call on you. For those participating through Zoom, please use the "Raise Hand" feature, and you will be unmuted. Begin your comment by stating your name and affiliation for the record. Your comments should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

MS. CATES: My name is Teri Cates. I'm the owner-operator at TLC Pest Control, and I'm also the vice president of New Mexico Pest Management Association and the State Policy Affairs Representative for the industry. I am here on behalf of myself and my association to support all the rule changes, as they are much needed and long overdue.

MR. OWEN: Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Pesticides Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at

the main Las Cruces office.

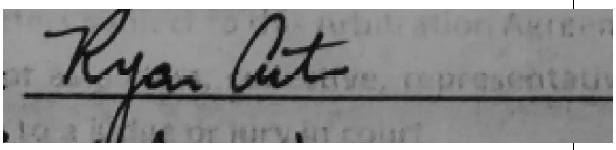
All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be available from the New Mexico Department of Agriculture's website.

The time is 9:21 a.m. I will now close this public hearing that addressed amendments to or the repeal and replacement of six New Mexico Department of Agriculture pesticide or plant pest-related rules. Thank you.

(Whereupon, at 9:21 a.m., the proceeding was concluded.)

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.



RYAN AUTEN

Notary Public in and for the

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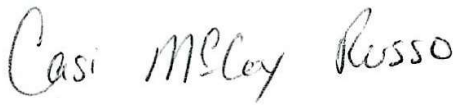

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Hearing Transcript - August 6, 2026

New Mexico Department of Agriculture

Pesticides Rulemaking Hearing

Moderated by Les Owen, Deputy Director

Thursday, August 6, 2026

9:00 a.m.

Central New Mexico Community College Workforce Training Center

5600 Eagle Rock Avenue Northeast

Albuquerque, NM 87113

Reported by: James Cogswell

JOB NO: 8264010

A P P E A R A N C E S

List of Attendees:

Les Owen, Deputy Director, New Mexico Department of Agriculture

Ryan Hiles, Assistant Division Director, New Mexico Department of Agriculture

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

Tim Darden, New Mexico Department of Agriculture

Nathan Abrahamson, New Mexico Department of Agriculture

Maria Rocha-Hall, New Mexico Department of Agriculture

Candie Sweetser, New Mexico Department of Agriculture

Alan Feuer, Attendee

Kyleigh Serna, Attendee

Dixie Mussaw, Attendee

Chris Benavidez, Attendee

John Crowley, Attendee

Bradley Lewis, New Mexico Department of Agriculture

P R O C E E D I N G S

MR. OWEN: We're ready? Okay. Good morning. At this time, we will start the hearing that addresses the proposed repeal and replacement of the following rules: Japanese Beetle Exterior Quarantine, 21.27.27 of the New Mexico Administrative Code. Control of Wood Destroying Pest, 21.17.51 of the New Mexico Administrative Code.

Continuing Education Units for Pesticide Applicators, 21.17.53 of the New Mexico Administrative Code. Restricted-Use Pesticides, 21.17.56 of the New Mexico Administrative Code. And M-44 Capsules and the Livestock Protection Collar, 21.17.57 of the New Mexico Administrative Code.

Additionally, this hearing will address the proposed amendments to the Pesticides Rule 21.17.50 of the New Mexico Administrative Code. My name is Les Owen. I am the deputy director for 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 rules and procedural steps were made available as you walked in. The day and date is Thursday, August 6th, and the

time is approximately 9:05 a.m.

This hearing is being held in person at the CNM Workforce Training Center located at 5600 Eagle Rock Avenue, Albuquerque, New Mexico. This is the published date, time, and location for this hearing.

In accordance to state law, public notices for this hearing were published as follows: The New Mexico Register, published June 23, 2026, Las Cruces Sun-News, June 23, 2026, The Santa Fe New Mexican, June 23, 2026, in English and Spanish, and the Albuquerque Journal, June 23, 2026.

Notices were also posted at the New Mexico Department of Agriculture's website and the New Mexico Sunshine Portal and made available at New Mexico Department of Agriculture's main office in Las Cruces.

Additionally, notifications were sent to the New Mexico Economic Development's Small Business Regulatory Advisory Commission for comment and to Legislative Counsel Service. Copies of the proposed replacement rules and amended rule were made available on New Mexico Department of Agriculture's website.

Written comments will be accepted until

5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office. Following a summary of major points within each proposed six rules, the public will be provided with an opportunity to present testimony.

Testimony should be relevant to the proposed rules or amendments. The first of six rules addressed in this hearing is the proposed repeal and replacement of the Japanese Beetle Exterior Quarantine Rule. Mr. Hiles will now provide a summary of proposed primary points included in the rule.

MR. HILES: Good morning. I am Ryan Hiles, an assistant division director with the New Mexico Department of Agriculture.

The Japanese Beetle Exterior Quarantine Rule 21.17.27 of the New Mexico Administrative Code was promulgated under the authority of the Pest Control Act 76.6.1 of New Mexico statutes to address risks associated with importing Japanese beetle into New Mexico through the importation of plant nursery stock.

Extensive proposed amendments to the Japanese Beetle Exterior Quarantine Rule necessitated the repeal and replacement of the existing rule.

Major points addressed include: additional definitions for clarification purposes.

Requirements for nurseries exporting plants to New Mexico to comply with the restrictions outlined in New Mexico Department of Agriculture issued compliance agreement. Expansion of quarantined areas to include all U.S. States and specific Canadian provinces.

Requirements for smaller pots containing non-gramineous nursery stock to be treated prior to export to New Mexico. And provide states a pathway to include multiple nurseries to be covered under one compliance agreement.

MR. OWEN: Thank you, Mr. Hiles.

As of August 6, 2026, New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Japanese Beetle Exterior Quarantine. Please raise your hand and wait until I call on you. Begin your comment by stating your name and affiliation for the record.

Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments. We have a microphone up here for anybody that would like to comment.

Yes, sir. If you'll please just come up to this microphone so that we can capture it.

MR. CROWLEY: Thank you for listening. Am I on? Okay. Thank you for listening. I'm John Crowley, and I'm a sales rep for Monrovia Growers. You -- I know this is a little heavy-handed as any agriculture department or any government entity is. You can't, like, say, "Oh, you get a by."

But as I've expressed in emails to the NMDA, it's hard to prove that ghosts don't exist. Monrovia Growers and many other growers have areas that are clean. And the way the rules or regulations are proposed, it's almost like go out there and trap.

And we don't want -- we really don't want to trap because it -- the traps you have us using in Oregon -- they do have us using those in Oregon already. That's a requirement. And we're compliant with that. That's easily done. That Oregon nursery is in an agricultural area. It isn't in a residential area. So that's easily done.

The -- none of us here, nobody in this room wants to bring Japanese beetles in. But the gramineous plants that you're requiring, those are basically woody landscape ornamentals. I can think of, like, pampus grass, maiden grass. And I can't

understand.

Maybe that's the USDA recommendation instead of -- and NMDA is just using that or -- or piggybacking with that. I don't know. But gramineous plants, I don't understand how that can be. I understand turf and then we're getting into gramineous, bluegrass, Kentucky Bluegrass. I get that.

But when it comes to woody ornamentals, which are a lot of ornamental grasses, you're really cutting down on a plant that people use here as a standalone, looks great in the gravel, not a heavy water user, drought tolerant, looks great. So I think that we -- I'd like to see us revisit that.

Also, the size container, you had mentioned be treated in there, some plants being treated. I don't know what that all entails, whether you're going to require us to start treating them with, like, Talstar or something prior to shipping. That's a little scary because you don't want to hit it with a chemical.

Then put it on the back of the truck, seal the door, and let it ride for six days with no sunshine. Then open it up and see what you got. You can understand that. So please work with us on that

and let us know. We're spending a lot of money up in Oregon to treat for them. We don't have any Japanese beetles up there.

We're -- I see the traps when I'm up there. So I think that if it's a clean nursery, a little less heavy-handed on the container size. You know, let's -- let's look at those. And I -- I think that might be a piggyback again with the USDA. Am I correct; Ryan?

MR. HILES: So for clean nurseries, that's going to -- the options in the proposed rule allow for clean nurseries to be excluded from the treatment requirements if need be.

MR. CROWLEY: Ah. Okay.

MR. HILES: So that's going to be --

MR. CROWLEY: I see. That -- yeah.

MR. HILES: Yes.

MR. CROWLEY: That was -- that was unclear. Thank you for the clarification there.

MR. HILES: No problem.

MR. CROWLEY: But it does seem a -- it's cutting back on a lot of the income of these garden centers that are running clean operations, just like Monrovia, you know, Osuna, Plant World. These places that are, you know, not Bob's cheap shop and

not -- the mass merchants are the ones that scare me the most.

So I'd really like some kind of -- you know, I saw it in California there aren't any bugs, but that's the only place I can ship my ornamental grasses from now. You've nixed me out of Oregon, you nixed me out of Georgia. But the only place I can ship them is California.

Now with this, you're going to nix me out of -- out of California next September 27th, I think -- or September of '27. It gets to the point, it's like, good golly. If you knew how much you cut my income by knocking me out of 15 and 10 gallon crape myrtles out of Georgia, you would be -- it -- it wouldn't -- anyway, it wasn't fun. It's not pleasant.

So I really -- we don't want Japanese beetle, but we feel it's a little heavy-handed from the New Mexico Department of Agriculture. Thank you.

MR. OWEN: Thank you.

Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Japanese Beetle Exterior Quarantine Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be

submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The second rule to be addressed during this hearing is the proposed repeal and replacement of the Control of Wood Destroying Pests Rule.

Mr. Baca will present a summary of major points contained in this proposed replacement rule.

MR. BACA: Good morning. I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture.

The Control of Wood Destroying Pests, Rule 21.17.51 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act, 76.4.1-39 of New Mexico statutes to

address regulatory requirements related to pesticide applicators involved in the control of wood-destroying pests.

Although proposed amendments to the existing Control of Wood Destroying Pest Rules are few, format updates necessitated the repeal and replacement of the existing rule. Major points addressed in the proposed rule include: update noting that not all termiticides are restricted use products.

Alignment of terms with those used in the Pesticide Control Act. And clarification of license types that require supervision while applying insecticides.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Control of Wood Destroying Pests Rule. Please raise your hand and wait until I call on you. Begin your comment by stating your name and affiliation for the record.

Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments. Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Wood Destroying Pests Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The third rule addressed in this hearing is the proposed repeal and replacement of the Continuing Education Units for Pesticide Applicators Rule.

Mr. Baca will present a summary of major points contained in the proposed replacement rule.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture.

The Continuing Education Units for

Pesticide Applicators Rule 21.17.53 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act, 76.4.1-39 of New Mexico statutes to address Environmental Protection Agency required updates relevant to Continuing Education Requirements for Pesticide Applicators.

Extensive proposed changes and format updates necessitated a repeal and replacement process for this rule. Major points proposed in the replacement rule include: definition updates, clarification of continuing education units approval process, addition of Environmental Protection Agency mandated recertification requirements.

And addition of new environmental protection agency pesticide applicator categories.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received no written comments. We'll now open the floor for comments directed at the proposed Continuing Education Units for Pesticide Applicators Rule. Please raise your hand and wait until I call on you.

Begin your comments by stating your name and affiliation for the record. Your comments

should be limited to the contents of the proposed rule. At this time, I will begin accepting comments.

Yes, sir.

MR. FEUER: Good morning. My name is Alan Feuer. I am a certified applicator in the State of New Mexico, license number 61155.

Did you get all that?

THE REPORTER: Yeah.

MR. FEUER: It's good enough?

I've held licensure in the state of New Mexico since 1989. I'm licensed in the Categories 7A, B, C, D, 3A, and 3B, six categories. I come up here today to speak in complete and total favor of the upgrade to the testing and certifications and recertification rules. This is far overdue.

It has been unfair for decades that only one category in our entire licensure circumstances required any sort of continuing education for operator servicemen. And this rectifies quite a bit of that. So thank you for the changes that have been made.

MR. OWEN: Thank you.

Is there anyone else wishing to comment?

Seeing none, I will close the public

oral comment period for the proposed Continuing Education Units for Pesticide Applicators Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The fourth rule addressed in this hearing is the proposed repeal and replacement of the Restricted-Use Pesticides Rule.

Mr. Baca will present a summary of major points contained in the proposed replacement rule.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture.

The Restricted-Use Pesticides Rule 21.17.56 of the New Mexico Administrative Code was

promulgated under the authority of the Pesticide Control Act 76.4.1-39 of New Mexico statutes to address regulations relevant to the purchase, sale, use, and record retention of Restricted Use Pesticides.

Although proposed amendments to the existing Restricted-Use Pesticides Rule are few, format updates necessitated the repeal and replacement of the current rule. The major point addressed in the proposed rule is a revision of pesticide records requirements to ensure compliance with Environmental Protection Agency mandates.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed Restricted-Use Pesticides Rule. Please raise your hand and wait until I call on you.

Begin your comment by stating your name and affiliation for the record. Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments. Is there anyone wishing to comment?

Seeing none, I will close the public

oral comment period for the proposed Restricted-Use Pesticide Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The fifth rule addressed in this hearing is the proposed repeal and replacement of the M-44 and Livestock Protection Collar Rule.

Mr. Baca will present a summary of major points contained in the proposed replacement rule.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture.

The M-44 and the Livestock Protection Collar Rule 21.17.57 of the New Mexico Administrative Code was promulgated under the authority of the

Pesticide Control Act 76.4.1-39 of New Mexico statutes to address regulations relevant to the purchase, sale, use, accident reporting, and record retention of M-44s and Livestock Protection Collars.

Although proposed amendments to the existing M-44 and the Livestock Protection Collar Rule are few, the format updates necessitated the repeal and replacement of the existing rule.

Major points proposed in the replacement rule include: clarification of prospective licensee qualifications, updating of records requirements, and harmonization of rule language with product labels.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed M-44 and Livestock Protection Collar Rule. Please raise your hand and wait until I call on you. Begin your comment by stating your name and affiliation for the record.

Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments. Is there anyone wishing to comment?

Seeing none, I will close the public oral comment period for the proposed M-44 and Livestock Protection Collar Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The last rule addressed in this hearing are proposed amendments to the Pesticides Rule. Mr. Baca will present a summary of major points contained in the proposed rule amendments.

MR. BACA: I am Steve Baca, an assistant division director with New Mexico Department of Agriculture.

The Pesticides Rule 21.17.50 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act, 76.4.1-39 of

New Mexico statutes to address regulations relevant to the sale of pesticides, purchase, use, licensing, and record requirements by commercial pesticide applicators and individuals using restricted use pesticides.

And identifying pesticide applicator licensing categories. The majority of proposed amendments to the Pesticide Rule are Environmental Protection Agency mandated updates.

These updates include: changes in examination requirements, record requirement enhancements, new pesticide applicator categories, and minimum age establishment for applicators.

Additionally, proposed amendments include: general language cleanup, increase in minimal insurance requirements, definition updates, and clarification to operator's training permits.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Pesticide Rule. Please raise your hand and wait until I call on you. Begin your comment by stating your name and affiliation for the record.

Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments.

Yes, sir.

MR. FEUER: Thank you. My name is Alan Feuer. I'm a commercial applicator, license number 61155, in six categories in the state of New Mexico. I rise to explain -- or to state my support for these changes.

MR. OWEN: Thank you.

Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed amendments to the Pesticides Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording

will be available from New Mexico Department of Agriculture's website.

The time is 9:23 a.m. I will now close this public hearing that addressed amendments to or the repeal and replacement of six New Mexico Department of Agriculture pesticide or plant pest related rules. Thank you.

(Whereupon, the meeting concluded at 9:23 a.m.)

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.



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

CERTIFICATE OF TRANSCRIBER

I, MARY SACKETT, 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.



MARY SACKETT

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New Mexico Rules of Civil Procedure for the

District Courts

Article 5, Rule 1-030

(e) Review by Witness; Changes; Signing. If requested by the deponent or a party before completion of the deposition, the deponent shall have thirty (30) days after being notified by the officer that the transcript or recording is available in which to review the transcript or recording and, if there are changes in form or substance, to sign a statement reciting such changes and the reasons given by the deponent for making them. The officer shall indicate in the certificate prescribed by Subparagraph (1) of Paragraph F of this rule whether any review was requested and, if so, shall append any changes made by the deponent during the period allowed.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE STATE RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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Exhibits

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the New Mexico Department of Agriculture (NMDA) proposes to repeal and replace the following: 21.17.27 NMAC, JAPANESE BEETLE EXTERIOR QUARANTINE; 21.17.51 NMAC, CONTROL OF WOOD DESTROYING PESTS; 21.17.53 NMAC, CONTINUING EDUCATION UNITS FOR PESTICIDE APPLICATORS; 21.17.56, NMAC RESTRICTED-USE PESTICIDES; and 21.17.57 NMAC, M-44 AND THE LIVESTOCK PROTECTION COLLAR. NMDA proposes amending 21.17.50 NMAC, PESTICIDES.

PURPOSE AND SUMMARY OF PRIMARY PROPOSED RULE CHANGES:

21.17.27 NMAC, JAPANESE BEETLE EXTERIOR QUARANTINE
Extensive amendments necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: additional terms added to the definition section to clarify regulatory requirements; scope of Japanese beetle (JB) quarantined areas expanded from 36 states to all U.S. states and specific Canadian provinces; scope of regulated articles expanded to include additional nursery stock items; compliance agreements (issued by NMDA) required for shipment of regulated articles into New Mexico; departments of agriculture in originating states provided options to petition NMDA for areawide or single-nursery compliance agreements; treatment requirements clarified for shipment of regulated articles into New Mexico; exceptions from compliance agreement requirements provided for small (under 10-inch container diameter) non-gramineous nursery stock; and requirement for small (under 10-inch container diameter) non-gramineous nursery stock to be treated and accompanied by a phytosanitary certificate for shipment into New Mexico.

21.17.51 NMAC, CONTROL OF WOOD DESTROYING PESTS
Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: removal of restricted use statement to reflect that not all termiticides are restricted use products; alignment of terms with those in the Pesticide Control Act, 76.4.18 et. seq. NMSA 1978; and clarification of license types that require direct supervision of employees applying pesticides.

21.17.53 NMAC, CONTINUING EDUCATION UNITS FOR PESTICIDE APPLICATORS
Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: updates to definitions; clarification of Continuing Education Unit approval process; addition of Environmental Protection Agency mandated recertification requirements, including the number of Continuing Education Units required for all applicator categories.

21.17.56 NMAC, RESTRICTED-USE PESTICIDES
Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: updates to language and revision of additional pesticide dealer record requirements to comply with Environmental Protection Agency.

21.17.57 NMAC, M-44 AND THE LIVESTOCK PROTECTION COLLAR
Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: clarification of prospective licensee qualifications; and records and usage requirements updated to address product label inconsistencies.

21.17.50 NMAC, PESTICIDES
Amendments are primarily directed at updating pesticide applicator requirements to comply with federal Environmental Protection Agency laws including: pesticide applicator examination requirements; enhanced dealer record requirements; minimum age requirements for pesticide applicator licensees (18 years old); and addition of new pesticide applicator categories. General cleanup of rule language included definition updates and increase in minimum insurance coverage requirements.

STATUTORY AUTHORITY (Rule 21.17.27 NMAC)**:** Granted to the Board of Regents of New Mexico State University under the Pest Control Act, Chapter 76, Article 6, Sections 1 through 9 NMSA 1978 Compilations. **(**Rules 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC, and 21.17.50 NMAC)**:** 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 Compilations.

Copies of the Notice of Proposed Rulemaking and the proposed rules (including any technical information) are available by electronic download from the New Mexico Department of Agriculture website (https://nmdeptag.nmsu.edu) and are also available at the department's office, located at 1050 Stewart Street, Las Cruces, NM.

Tuesday, August 4, 2026, at 9 a.m., NMDA will host a public hearing that may be attended in person, by video conference, or by telephone. The hearing will take place at the Gerald Thomas Hall Auditorium (Room 194) on the campus of New Mexico State University, located at 940 College Drive, Las Cruces, NM. The hearing will include repeal and replacement, and or amendments to rules 21.17.27 NMAC, 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC and 21.17.50 NMAC.

Join the hearing via **video conference** Tuesday, August 4, 2026, at 9:00 a.m.:
Meeting URL: https://nmsu.zoom.us/j/87014463854
Meeting ID: 870 1446 3854
Or
Join the hearing via **phone** Tuesday, August 4, 2026, at 9:00 a.m.:
Phone: 1 669 900 6833 or 1 719 359 4580
Meeting ID: 870 1446 3854

Thursday, August 6, 2026 at 9 a.m., NMDA will host a public, in-person hearing at the CNM Workforce Training Center, located at 5600 Eagle Rock Ave NE, Albuquerque, NM. The hearing will include repeal and replacement, and or amendments to rules 21.17.27 NMAC, 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC, and 21.17.50 NMAC.

Oral and written comments will be accepted at the hearings from members of the public and interested parties. Written comments will be accepted until August 6, 2026, at 5:00 p.m. Comments may be submitted via email to 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

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/Secretary of Agriculture will consider all oral comments and will review all timely submitted written comments and responses.

AVISO DE PROPUESTA DE REGLAMENTACIÓN

POR LA PRESENTE SE NOTIFICA que el Departamento de Agricultura de Nuevo México (NMDA) propone derogar y reemplazar las siguientes normas: 21.17.27 NMAC, CUARENTENA EXTERIOR CONTRA EL ESCARABAJO JAPONÉS; 21.17.51 NMAC, CONTROL DE PLAGAS QUE DESTRUYEN LA MADERA; 21.17.53 NMAC, UNIDADES DE EDUCACIÓN CONTINUA PARA APLICADORES DE PLAGUICIDAS; 21.17.56 NMAC, PLAGUICIDAS DE USO RESTRINGIDO; y 21.17.57 NMAC, M-44 Y EL COLLAR DE PROTECCIÓN PARA GANADO. El NMDA propone modificar la norma 21.17.50 NMAC, PLAGUICIDAS.

PROPÓSITO Y RESUMEN DE LOS PRINCIPALES CAMBIOS PROPUESTOS A LA REGLAMENTACIÓN:

21.17.27 NMAC, CUARENTENA EXTERIOR CONTRA EL ESCARABAJO JAPONÉS
La necesidad de realizar modificaciones extensas requirió la derogación y el reemplazo de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: incorporación de términos adicionales en la sección de definiciones para aclarar los requisitos reglamentarios; ampliación del alcance de las áreas bajo cuarentena por el escarabajo japonés (JB, por sus siglas en inglés), pasando de 36 estados a todos los estados de EE. UU. y provincias canadienses específicas; ampliación del alcance de los artículos regulados para incluir productos adicionales de vivero; exigencia de acuerdos de cumplimiento (emitidos por el NMDA) para el envío de artículos regulados a Nuevo México; otorgamiento de opciones a los departamentos de agricultura de los estados de origen para solicitar al NMDA acuerdos de cumplimiento a nivel de área o para viveros individuales; aclaración de los requisitos de tratamiento para el envío de artículos regulados a Nuevo México; establecimiento de excepciones a los requisitos de acuerdo de cumplimiento para plantas de vivero pequeñas (en contenedores de menos de 10 pulgadas de diámetro) que no sean gramíneas; y requisito de que las plantas de vivero pequeñas (en contenedores de menos de 10 pulgadas de diámetro) que no sean gramíneas sean tratadas y vayan acompañadas de un certificado fitosanitario para su envío a Nuevo México.

21.17.51 NMAC, CONTROL DE PLAGAS QUE DESTRUYEN LA MADERA
Los requisitos de actualización de formato hicieron necesaria la derogación y el reemplazo de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: eliminación de la declaración de uso restringido para reflejar que no todos los termiticidas son productos de uso restringido; alineación de los términos con los de la Ley de Control de Pesticidas (*Pesticide Control Act*), secciones 76.4.18 y siguientes de la NMSA 1978; y aclaración de los tipos de licencia que requieren supervisión directa de los empleados que aplican pesticidas.

21.17.53 NMAC, UNIDADES DE EDUCACIÓN CONTINUA PARA APLICADORES DE PESTICIDAS
Los requisitos de actualización de formato hicieron necesaria la derogación y sustitución de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: actualizaciones de definiciones; aclaración del proceso de aprobación de las Unidades de Educación Continua; e incorporación de los requisitos de recertificación exigidos por la Agencia de Protección Ambiental (EPA), incluido el número de Unidades de Educación Continúa requerido para todas las categorías de aplicadores.

21.17.56 NMAC, PESTICIDAS DE USO RESTRINGIDO
Los requisitos de actualización de formato hicieron necesaria la derogación y sustitución de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: actualizaciones en la redacción y revisión de los requisitos adicionales de registro para distribuidores de pesticidas, a fin de cumplir con las disposiciones de la Agencia de Protección Ambiental (EPA).

21.17.57 NMAC, M-44 Y EL COLLAR DE PROTECCIÓN PARA GANADO
Los requisitos de actualización de formato hicieron necesaria la derogación y sustitución de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: aclaración de los requisitos para los futuros titulares de licencias; y actualización de los requisitos de registro y uso para abordar las inconsistencias en las etiquetas de los productos.

21.17.50 NMAC, PESTICIDAS
Las modificaciones se centran principalmente en actualizar los requisitos para aplicadores de pesticidas a fin de cumplir con las leyes federales de la Agencia de Protección Ambiental (EPA), incluyendo: requisitos de examen para

aplicadores de pesticidas; requisitos reforzados de registro para distribuidores; requisitos de edad mínima para los titulares de licencias de aplicador de pesticidas (18 años); e incorporación de nuevas categorías de aplicadores de pesticidas. Se realizó una revisión general de la redacción de la norma que incluyó actualizaciones de definiciones y un aumento en los requisitos mínimos de cobertura de seguro.

AUTORIDAD LEGAL (Norma 21.17.27 NMAC): Otorgada a la Junta de Regentes de la Universidad Estatal de Nuevo México (*New Mexico State University*) en virtud de la Ley de Control de Plagas (*Pest Control Act*), Capítulo 76, Artículo 6, Secciones 1 a 9 de la Compilación NMSA 1978. AUTORIDAD LEGAL (Reglas 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC y 21.17.50 NMAC): Otorgada a la Junta de Regentes de la Universidad Estatal de Nuevo México (New Mexico State University) en virtud de la Ley de Control de Pesticidas de Nuevo México (New Mexico Pesticide Control Act), Capítulo 76, Artículo 4, Secciones 1 a 39, Compilaciones NMSA 1978.

Se pueden obtener copias del Aviso de Propuesta de Reglamentación y de las reglas propuestas (incluida cualquier información técnica) mediante descarga electrónica desde el sitio web del Departamento de Agricultura de Nuevo México (https://nmdeptag.nmsu.edu); también están disponibles en la oficina del departamento, ubicada en 1050 Stewart Street, Las Cruces, NM.

El martes 4 de agosto de 2026, a las 9:00 a. m., el NMDA celebrará una audiencia pública a la que se podrá asistir en persona, por videoconferencia o por teléfono. La audiencia tendrá lugar en el auditorio Gerald Thomas Hall (Sala 194) del campus de la New Mexico State University, ubicado en 940 College Drive, Las Cruces, NM. La audiencia abordará la derogación y sustitución, y/o las modificaciones de las normas 21.17.27 NMAC, 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC y 21.17.50 NMAC.

Participe en la audiencia por **videoconferencia** el martes 4 de agosto de 2026, a las 9:00 a. m.:
URL de la reunión: https://nmsu.zoom.us/j/87014463854
ID de la reunión: 870 1446 3854
O
Participe en la audiencia por **teléfono** el martes 4 de agosto de 2026, a las 9:00 a. m.:
Teléfono: 1 669 900 6833 o 1 719 359 4580
ID de la reunión: 870 1446 3854

El jueves 6 de agosto de 2026, a las 9:00 a. m., el NMDA celebrará una audiencia pública presencial en el CNM Workforce Training Center, ubicado en 5600 Eagle Rock Ave NE, Albuquerque, NM. La audiencia abordará la derogación y sustitución, y/o las modificaciones de las normas 21.17.27 NMAC, 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC y 21.17.50 NMAC.

En las audiencias se aceptarán comentarios orales y escritos por parte del público y de las partes interesadas. Se aceptarán comentarios por escrito hasta el 6 de agosto de 2026 a las 5:00 p.m. Los comentarios pueden enviarse por correo electrónico a comments@nmda.nmsu.edu o presentarse enviando copias originales a:

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

NECESIDADES ESPECIALES: Si usted es una persona con discapacidad que necesita un lector, un amplificador, un intérprete de lengua de señas cualificado o cualquier otra forma 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 tan pronto como sea posible.

El Director/Secretario de Agricultura tomará en cuenta todos los comentarios orales y revisará todos los comentarios y respuestas por escrito presentados dentro del plazo establecido.

ARTICLE 4
Pesticide Control

76-4-1. Title.

This act [76-4-1 to 76-4-39 (except 76-4-20.1) NMSA 1978] may be cited as the "Pesticide Control Act."

History: 1953 Comp., § 45-25-1, enacted by Laws 1973, ch. 366, § 1.

ANNOTATIONS

Compiler's notes. — Laws 1973, ch. 366, which originally enacted the Pesticide Control Act, is presently compiled as 76-4-1 to 76-4-20, 76-4-21 to 76-4-28, 76-4-30 to 76-4-39 NMSA 1978. Laws 1992, ch. 25, § 1 enacted 76-4-9.1 NMSA 1978 as part of the Pesticide Control Act.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 55.

Exterminator's tort liability for personal injury or death directly resulting from operations, 29 A.L.R.4th 987.

Anticompetitive covenants: aerial spray dust business, 60 A.L.R.4th 965.

Federal pre-emption of state common-law products liability claims pertaining to pesticides, 101 A.L.R. Fed. 887.

76-4-2. Enforcing agency.

The Pesticide Control Act shall be administered and enforced by the state department of agriculture, under the direction of the board of regents, New Mexico state university.

History: 1953 Comp., § 45-25-2, enacted by Laws 1973, ch. 366, § 2.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 20, 21.

3 C.J.S. Agriculture §§ 8 to 24.

76-4-3. Definitions.

As used in the Pesticide Control Act:

A. "equipment" means any type of ground, water or aerial equipment, device or contrivance using motorized, mechanical or pressurized power to apply any pesticide on land and anything that may be growing,

habitating or stored on or in such land, but does not include any pressurized hand-sized household device used by a homeowner to apply a pesticide or any equipment, device or contrivance of which the person who is applying the pesticide on the person's own land is the source of power or energy in making the pesticide application;

B. "board" means the board of regents of New Mexico state university;

C. "department" means the New Mexico department of agriculture;

D. "device" means any instrument or contrivance other than a firearm that is intended for trapping, destroying, repelling or mitigating any pest or any other form of plant or animal life, other than humans and other than bacteria, viruses or other microorganisms on or in any living thing other than plants, but does not include equipment used for the application of pesticides when sold separately therefrom, or traps used to control predators or rodents or sterilization using dry heat or steam;

E. "distribute" means to offer for sale, hold for sale, sell, barter or supply in this state;

F. "environment" includes water, air and land and all plants and every living thing in water, in air and on land and the existing interrelationships;

G. "insect" means any of the numerous small invertebrate animals belonging principally to the class insecta, including beetles, bugs, bees, flies, and to other allied classes of arthropods, including spiders, mites, ticks, millipedes, centipedes and sowbugs;

H. "ingredient statement" means a statement that contains the name and percentage of each ingredient of any pesticide that is intended for one of the purposes under Paragraphs (1) through (4) of Subsection N of this section, and the total percentage of all ingredients in the pesticide not for one of those purposes. If the pesticide contains arsenic in any form, the ingredient statement shall contain a statement of the percentages of total and water-soluble arsenic, calculated as elemental arsenic;

I. "label" means the written, printed or graphic matter on or attached to the pesticide or device or any of its containers or wrappers;

J. "labeling" means all labels and all other written, printed or graphic matter accompanying the pesticide or device at any time; or to which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the department, the United States environmental protection agency, United States departments of agriculture, the interior and health and human services, state agricultural universities and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides;

K. "land" means all land and water areas, including air space, and all living things and all structures, buildings, contrivances and machinery appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation;

L. "person" has the extended meaning ascribed to it in Subsection E of Section 12-2A-3 NMSA 1978;

M. "pest" means any living organism injurious to other living organisms, except humans, viruses, bacteria or other microorganisms in or on other living organisms other than plants, that the board by rule declares to be a pest;

N. "pesticide" means any substance or mixture of substances intended for:

(1) preventing, destroying, repelling or mitigating any pest;

(2) causing the leaves or foliage to drop from a plant, with or without causing abscission;

(3) artificially accelerating the drying of plant tissue; or

(4) accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior, of ornamental or crop plants or the produce thereof, through physiological action, but not including substances that are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants or soil amendments;

O. "pesticide dealer" means any person who distributes highly toxic pesticides, restricted use pesticides or both, which pesticides are restricted by rule to distribution only by licensed pesticide dealers;

P. "pest management consultant" means any individual who offers or supplies technical advice or makes recommendations to the user of highly toxic pesticides, restricted use pesticides or both, which pesticides are restricted by rule to distribution only by licensed pesticide dealers;

Q. "registrant" means a person who has registered any pesticide pursuant to the provisions of the Pesticide Control Act;

R. "restricted use pesticide" means any pesticide or device designated by the board as requiring specific restrictions to prevent unreasonable adverse effects on the environment, including humans, beneficial insect predators and parasites, pollinating insects, animals, crops, wildlife and lands but excluding the pests the pesticide or device is intended to prevent, destroy, control or mitigate;

S. "unreasonable adverse effects on the environment" means an unreasonable risk to humans or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide;

T. "noncommercial applicator" means a person who uses or demonstrates restricted use pesticides and does not qualify as a private applicator and is not required to have a commercial applicator's license;

U. "private applicator" means a certified applicator who uses or supervises the use of any pesticide that is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by the certified applicator or the certified applicator's employer or on the property of another person if applied without compensation other than trading of personal services between producers of agricultural commodities;

V. "public applicator" means a certified applicator who as an employee of a federal, state, county or municipal agency or municipal corporation uses any pesticide that is classified for restricted use or any general use pesticide, when applied to sites or under conditions identified by rule promulgated by the board; and

W. "commercial applicator" means a certified applicator, whether or not the certified applicator is a private applicator with respect to some uses, who for compensation uses or supervises the use of any pesticide for any purpose on any property other than as provided by Sections 76-4-19 and 76-4-20.1 NMSA 1978.

History: 1953 Comp., § 45-25-3, enacted by Laws 1973, ch. 366, § 3; 1979, ch. 394, § 1; 2009, ch. 101, § 1; 2009, ch. 109, § 1.

ANNOTATIONS

The 2009 amendment, effective June 19, 2009, in Subsection L, changed the reference from Section 12-2-2 NMSA 1978 to Section 12-2A-3 NMSA 1978; in Subsection V, after "restricted use", deleted "only by

certified applicators or persons under their direct supervision" and added the remainder of the sentence; and in Subsection W, added the reference to Section 76-4-19 NMSA 1978.

Laws 2009, ch. 101, § 1 and Laws 2009, ch. 109, § 1 enacted identical amendments to this section. The section was set out as amended by Laws 2009, ch. 109, § 1. *See* 12-1-8 NMSA 1978.

76-4-4. Misbranded.

A pesticide or device is misbranded if:

A. its labeling bears any statement, design or graphic representation relative thereto or to its ingredients which is false or misleading;

B. it is contained in a package or other container or wrapping which does not conform to the standards established by the board;

C. it is an imitation of or is distributed under the name of another pesticide or device;

D. any word, statement or other information, required by the Pesticide Control Act or regulations adopted thereunder to appear on the label or labeling, is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or graphic matter in the labeling), and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

E. the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product was intended and if complied with, together with any requirements imposed by the Pesticide Control Act and regulations adopted by the board, are adequate to prevent injury to plants and animals including man, and protect against any unreasonable adverse effects on the environment;

F. the labeling bears any reference to registration under the provisions of the Pesticide Control Act unless such reference is required by regulations adopted pursuant to the Pesticide Control Act;

G. the label does not bear:

(1) the name and address of the producer, registrant or person for whom produced;

(2) the name, brand or trademark under which the pesticide is distributed;

(3) an ingredient statement on that part of the immediate container and on the outside container or wrapper, if there be one through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of purchase. However, the department may permit the ingredient statement to appear prominently on some other part of the container, if the size or form of the container makes it impracticable to place the ingredient statement on the part which is presented or displayed under customary conditions of purchase;

(4) directions for use and a warning or caution statement which are necessary and which, if complied with, would be adequate for the protection of health and protection against injury to plants and animals including man and protection against any unreasonable adverse effects on the environment;

(5) the net weight or measure of the contents;

(6) the registration number assigned the pesticide and the registration number of the person formulating the pesticide by the United States environmental protection agency; and

(7) a statement of the use classification under which the product is registered, if required by federal or state regulations;

H. the pesticide contains any substance or substances in quantities highly toxic to man, as determined by the board unless the label bears, in addition to any other matter required by the Pesticide Control Act:

(1) the skull and crossbones or any other symbol required for registration by the United States environmental protection agency;

(2) the word "POISON" prominently printed in red on a background of distinctly contrasting color; and

(3) a statement of an antidote or practical treatment in case of poisoning by the pesticide;

I. the pesticide container does not bear a label or if the label does not contain all the information required by the Pesticide Control Act and the regulations adopted pursuant to the act, or both;

J. the label for a spray adjuvant fails to state the type or function of the functioning agents; or

K. the label is not printed in English and Spanish, as prescribed by the United States environmental protection agency and by regulations of the board.

History: 1953 Comp., § 45-25-4, enacted by Laws 1973, ch. 366, § 4.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 55.

76-4-5. Prohibited acts.

A. It is unlawful for any person to distribute within the state, to deliver for transportation or transport in intrastate commerce, or between points within this state through any point outside this state, or use any of the following:

(1) any pesticide which has not been registered in accordance with the Pesticide Control Act or regulations adopted pursuant to that act;

(2) any pesticide if any of the claims made for it or any of the directions for its use or other labeling differs from the representations made in connection with its registration, or if the composition as represented in connection with its registration, differs. However, at the discretion of the department, a change in the labeling of a pesticide except changes in the ingredient statement may be made within a registration period without requiring reregistration of the product if the change will not have unreasonable adverse effects on the environment;

(3) any pesticide, unless it is in the unbroken immediate container of the registrant or manufacturer and there is affixed to the container, and to the outside container or wrapper of the retail package, if there is

one through which the required information on the immediate container cannot be clearly read, a label bearing information required in the Pesticide Control Act and the regulations adopted pursuant to that act;

(4) any pesticide which has not been colored or discolored as required by the Pesticide Control Act;

(5) any pesticide which does not meet the professed standard of quantity or quality, as expressed on the labeling under which it is sold, or in which any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent has been wholly or in part abstracted or if any contaminated is misbranded or is present in an amount determined by the department to be a hazard;

(6) any device which is misbranded; or

(7) any pesticide in containers violating regulations adopted pursuant to the Pesticide Control Act, or pesticides found in damaged containers which constituted a hazard to the environment.

B. It is unlawful:

(1) to distribute a restricted use pesticide to any person who is required by law or regulations promulgated pursuant to the Pesticide Control Act to have a permit to use or purchase restricted use pesticides, unless the person or his agent, to whom sale or delivery is made, has a valid permit to use or purchase the kind and quantity of the restricted use pesticide. However, subject to conditions established by the department, such permit may be obtained from any person designated by the department immediately prior to distribution;

(2) for any person to detach, alter, deface or destroy, wholly or in part, any label or labeling provided for in the Pesticide Control Act or regulations adopted pursuant to that act, or to add any substance to, or take any substance from, a pesticide in a manner that may defeat the purpose of the Pesticide Control Act or the regulations adopted thereunder;

(3) for any person to use or cause to be used any restricted use pesticide contrary to directions on the label or to regulations of the board if those regulation differ from or further restrict the labeling;

(4) for any person to use for his own advantage or to reveal, other than to the department, or to the courts of the state in response to a subpoena, or to physicians, or in emergencies to pharmacists and other qualified persons for use in the preparation of a practical treatment including first aid, in case of poisoning, any information relative to formulas of products acquired by authority of the Pesticide Control Act;

(5) for any person to handle, transport, store, display, distribute or use pesticides in such a manner as to endanger man and his environment or to endanger food, feed or any other products that may be transported, stored, displayed or distributed with such pesticides; or

(6) for any person to dispose of, discard or store any pesticides or pesticide containers in a manner that may cause injury to humans, vegetation, crops, livestock, wildlife, pollinating insects or to pollute any water supply or waterway.

History: 1953 Comp., § 45-25-5, enacted by Laws 1973, ch. 366, § 5.

ANNOTATIONS

Cross references. — For penalties, *see* 76-4-34 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 42, 50, 51.

3 C.J.S. Agriculture § 87.

76-4-6. Registration.

A. Each pesticide or device that is distributed within the state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be registered with the department subject to the provisions of the Pesticide Control Act. However, the registration is not required if a pesticide is shipped from one plant or warehouse operated by the same person and used solely at such plant or warehouse as a constituent part to make a pesticide which is registered under the provisions of the Pesticide Control Act.

B. The applicant for registration shall file a statement with the board which includes:

(1) the name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant's;

(2) the name of the pesticide or device;

(3) other necessary information required for completion of the application for registration form;

(4) a complete copy of the labeling accompanying the pesticide or device and a statement of all claims including the directions and precautions for use; and

(5) the use classification of the pesticide, if required by federal or state regulations.

C. The department when it deems it necessary in the administration of the Pesticide Control Act, may require the submission of the complete formula of any pesticide including all ingredients which will prevent, destroy, repel, control or mitigate pests, or which will act as a plant regulator, defoliant, desiccant or those which act as a functioning agent in a spray adjuvant, and all ingredients which do not perform these functions.

D. The department may require a full description of the tests made and the results thereof upon which the claims are based on any pesticide, device or on any pesticide or device on which restrictions are being considered. In the case of renewal of registration, the applicant shall be required to furnish only information which is different from that furnished when the pesticide was registered or reregistered during the previous license year.

E. The board may prescribe other necessary information by regulation.

F. The applicant desiring to register a pesticide or device shall pay an annual prescribed registration fee for each pesticide or device registered.

G. Any registration approved by the department and in effect on December 31 of the year for which a renewal application has been made and the proper fee paid, shall continue in full force and effect until the department notifies the applicant that the registration has been renewed or denied in accord with the provisions of the Pesticide Control Act. Forms for reregistration shall be mailed to registrants at least thirty days prior to the due date.

H. If it appears to the department that the composition of the pesticide warrants the proposed claims for it and if the pesticide or device and its labeling and other material submitted comply with the requirements of the Pesticide Control Act, the department shall register the pesticide or device.

I. All federal, state and county agencies or municipalities shall register all pesticides or devices distributed by them but shall not be required to pay the registration fee.

History: 1953 comp., § 45-25-6, enacted by Laws 1973, ch. 366, § 6.

ANNOTATIONS

Law reviews. — For article, "An Administrative Procedure Act For New Mexico," see 8 Nat. Resources J. 114 (1968).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 42.

3 C.J.S. Agriculture §§ 95, 97.

76-4-7. Experimental use permits.

A. No person shall conduct field tests using a pesticide not registered with the department or a registered pesticide for a use not previously approved in the registration without first having obtained an experimental use permit from the department.

B. Any person may apply to the department for an experimental use permit for a pesticide. The department may issue an experimental use permit if it determines that the applicant needs the permit in order to accumulate information necessary to register a pesticide. The department may refuse to issue an experimental use permit if it determines that issuance of such permit is not warranted or that the pesticide use to be made under the proposed terms and conditions may cause unreasonable adverse effects on the environment.

C. Use of a pesticide under an experimental use permit shall be under the supervision of the department and shall be subject to the terms and conditions and be for the period of time prescribed by the department in the permit.

D. The department may revoke any experimental use permit at any time, if it finds that the terms or conditions of the permit are being violated, or that its terms and conditions are inadequate to avoid unreasonable adverse effects on the environment.

History: 1953 Comp., § 45-25-7, enacted by Laws 1973, ch. 366, § 7; 1979, ch. 394, § 2.

76-4-8. Refusal to register; cancellation; suspension.

A. If it does not appear to the department that the pesticide or device warrants the proposed claims or if the pesticide or device and its labeling and other required material do not comply with the provisions of the Pesticide Control Act or regulations adopted thereunder, the department shall notify the applicant of the manner in which the pesticide, device, labeling or other required material fails to comply with the provisions of the Pesticide Control Act and permit the applicant to make the necessary corrections. If, upon receipt of such notice, the applicant does not make the required changes, the department may refuse to register the pesticide or device.

B. The department may, when it determines that a pesticide or device or its labeling does not comply with the provisions of the Pesticide Control Act or the regulations adopted thereunder, cancel the registration of a pesticide or device.

C. The department shall, when it determines that a situation exists in which the continued use of a pesticide during the time required for cancellation under the Pesticide Control Act would likely result in unreasonable adverse effects on the environment, suspend on their own motion, the registration or a pesticide or device.

History: 1953 Comp., § 45-25-8, enacted by Laws 1973, ch. 366, § 8.

ANNOTATIONS

Cross references. — For stop sale, use or removal order, *see* 76-4-11 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 42.

3 C.J.S. Agriculture §§ 98, 100.

76-4-9. Department to administer and enforce act; board to adopt regulations; scope of regulations.

The department shall administer and enforce the provisions of the Pesticide Control Act and regulations promulgated by the board.

A. The board may after notice and public hearing adopt regulations for carrying out the purpose and provisions of the Pesticide Control Act, including regulations providing for:

(1) declaring as a pest any form of plant or animal life or virus, other than man and other than bacteria, viruses and other microorganisms on or in living man or other living animals, which is injurious to health or the environment;

(2) designating certain pesticides to be highly toxic to any animal including man;

(3) determining standards for identifying pesticides by color, taste, odor or form;

(4) the collection and examination of devices or samples of pesticides for analysis;

(5) requiring pesticide applicators to notify land owners of property adjoining the property to be treated, or in the immediate vicinity thereof, of a proposed application of a pesticide, if such a notice is necessary to carry out the purpose of the Pesticide Control Act; and for a hearing before the director of the department of any objecting owner of property adjoining the property to be treated before the application of the pesticide;

(6) the safe handling, transportation, storage, display, distribution, use and disposal of pesticides and their containers;

(7) establishing standards with respect to the package, container or wrapping in which a pesticide is distributed;

(8) restricting or prohibiting the use of certain types of containers or packages for specific pesticides. These restrictions may apply to type of construction, strength and size or any combination thereof to alleviate danger of spillage, breakage, misuse or any other hazard to the public;

(9) procedures for making pesticide recommendation;

(10) adopting a list of restricted use pesticides for the state or for designated areas within the state;

(11) regulating the time and conditions of distribution, sale or use of the restricted use pesticides;

(12) requiring all persons issued licenses to offer technical advice, to sell or to use restricted use pesticides to maintain records as prescribed by the department;

(13) certification of private applicators;

(14) label requirements of all pesticides required to be registered under provisions of the Pesticide Control Act;

(15) regulating the labeling of devices;

(16) procedures and techniques to be used in sampling land, including agricultural products that are to be consumed by man or animals for pesticide residues;

(17) classifying pesticides for general use, restricted use or both;

(18) prescribing methods to be used in the application of pesticides where the department finds that such regulations are necessary to carry out the purpose and intent of the Pesticide Control Act. Such regulations may relate to the time, manner, methods, materials and amounts and concentrations in connection with the application of the pesticides and may restrict or prohibit use of pesticides in designated areas during specified periods of time and shall encompass all reasonable factors which the department deems necessary to prevent damage or injury by drift or misapplication to plants, including forage plants, or adjacent or nearby lands; wildlife in the adjoining or nearby areas; fish and other aquatic life in waters in reasonable proximity to the area to be treated; and humans, animals or beneficial insects. In issuing such regulations, the board shall give consideration to pertinent research findings and recommendations of other agencies of the state, the federal government or other reliable sources;

(19) requiring any pesticide use dilution to be colored or discolored if it determines that such requirement is feasible and is necessary for the protection of health and the environment;

(20) establishing good pesticide use and handling practices for commercial pesticide applicators;

(21) establishing requirements for supervision of servicemen of structural pest control applicators; and

(22) regulating false or misleading advertisement in the sales or use of pesticides and devices.

B. The board shall adopt regulations that are consistent with regulations of the New Mexico environmental improvement board, the New Mexico water quality control commission and the laws administered by the regulations of the United States environmental protection agency.

C. The department is authorized to specify the quantities and concentrations of restricted use pesticides that may be applied.

History: 1953 Comp., § 45-25-9, enacted by Laws 1973, ch. 366, § 9; 1979, ch. 394, § 3.

ANNOTATIONS

Law reviews. — For article, "Constitutional Limitations on the Exercise of Judicial Functions by Administrative Agencies," see 7 Nat. Resources J. 599 (1967).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 20, 21.

3 C.J.S. Agriculture § 96.

76-4-9.1. State preemption.

Except as otherwise authorized in the Pesticide Control Act, no city, county or other political subdivision of the state and no home rule municipality shall adopt or continue in effect any ordinance, rule, regulation or statute regarding the registration, labeling, distribution, sale, handling, use, application, transportation or disposal of pesticides.

History: Laws 1992, ch. 25, § 1.

ANNOTATIONS

Effective dates. — Laws 1992, ch. 25 contained no effective date provision, but, pursuant to N.M. Const., art IV, § 23, was effective on May 20, 1992.

76-4-10. Sampling and examination of pesticides or devices; residue analysis.

A. The sampling and examination of pesticides or devices shall be made under the direction of the department for the purpose of determining if they comply with the requirements of the Pesticide Control Act.

B. The sampling of land, including agricultural products that are to be consumed by man or animals, may be made by the department to determine if pesticide residues are present that will cause unreasonable adverse effects on the environment or if the residues exceed the tolerance established by the United States environmental protection agency, New Mexico environmental improvement agency [department of environment] or restrictions established by other federal or state regulatory agencies.

History: 1953 Comp., § 45-25-10, enacted by Laws 1973, ch. 366, § 10.

ANNOTATIONS

Bracketed material. — The bracketed material was inserted by the compiler and is not part of the law.

The environmental improvement agency was abolished by Laws 1977, ch. 253, § 5. Section 4 of that act established the health and environment department, consisting of several divisions, including the environmental improvement division. Section 14 of that act provided that all references in law to the agency shall be construed to be references to the environmental improvement division. Laws 1991, ch. 25, § 4

established the department of environment and provided that all references to the environmental improvement division of the health and environment department shall be construed to mean the department of environment.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 53.

3 C.J.S. Agriculture § 99.

76-4-11. "Stop sale, use or removal" order.

When the department has reasonable cause to believe a pesticide or device is being distributed, used, stored or transported in violation of any of the provisions of the Pesticide Control Act or regulations adopted pursuant thereto, the department may issue and serve a written "stop sale, use or removal" order upon the owner or custodian of the pesticide or device. If the owner or custodian is not available to receive the order, the department may attach the order to the pesticide or device and notify the registrant. The pesticide or device shall not be distributed, used or removed until the provisions of the Pesticide Control Act have been complied with and the pesticide or device has been released in writing under conditions specified by the department or the alleged violation has been otherwise disposed of as provided in the Pesticide Control Act by a court of competent jurisdiction.

History: 1953 Comp., § 45-25-11, enacted by Laws 1973, ch. 366, § 11.

ANNOTATIONS

Cross references. — For judicial action after stop sale, use or removal order, *see* 76-4-12 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 42.

76-4-12. Judicial action after "stop sale, use or removal" order.

A. After service of a "stop sale, use or removal" order is made upon any person, that person or the registrant or the department may file an action in a court of competent jurisdiction, in the county in which a violation of the Pesticide Control Act or regulations adopted thereunder is alleged to have occurred, for an adjudication of the alleged violation. The court in such action may issue temporary or permanent injunctions, mandatory or restraining, and such intermediate orders as it deems necessary or advisable. The court may order condemnation of any pesticide or device that does not meet the requirements of the Pesticide Control Act or regulations adopted thereunder.

B. If the pesticide or device is condemned, it shall, after entry of decree, be disposed of by destruction or sale as the court directs. However, the pesticide or device shall not be sold contrary to the provisions of the Pesticide Control Act or regulations adopted thereunder. Upon payment of the costs of the condemnation proceedings and the execution and delivery of a bond as prescribed by the court to assure the pesticide or device shall not be sold or disposed of contrary to the provisions of the Pesticide Control Act or regulations adopted pursuant thereto, the court may direct that the pesticide or device be delivered to the owner thereof for relabeling, reprocessing or otherwise bringing the product into compliance.

C. When a decree of condemnation is entered against the pesticide or device, court costs, fees, storage and other proper expenses shall be awarded against the person, if any, appearing as claimant of the pesticide or device.

History: 1953 Comp., § 45-25-12, enacted by Laws 1973, ch. 366, § 12.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 42.

3 C.J.S. Agriculture § 100.

76-4-13. Pesticide dealer license.

A. It is unlawful for any person to act in the capacity of a pesticide dealer, or advertise as, or assume to act as a pesticide dealer at any time without first having obtained an annual license from the department. A license shall be required for each location or outlet located within this state from which pesticides are distributed. Any manufacturer, registrant or distributor who has no pesticide dealer outlet licensed within this state and who distributes pesticides directly into this state shall obtain a pesticide dealer license for his principal out-of-state location or outlet.

B. Application for a license shall be accompanied by the prescribed annual license fee and shall be on a form provided by the department. The application shall include:

(1) the full name and title of the person applying for the license;

(2) the address of each outlet to be licensed;

(3) the principal business address of the applicant;

(4) the name of a person domiciled in this state authorized to receive and accept service of summons and legal notices of all kinds for the applicant; and

(5) any other necessary information prescribed by the department.

C. Provisions of this section shall not apply to a licensed pesticide applicator who sells pesticides only as an integral part of his pesticide application service when the pesticides are dispensed only through an apparatus used for such pesticide application, or any federal, state or county agency, or municipality which provides pesticides only for its own programs.

D. Each pesticide dealer shall be responsible for the acts of each individual employed by him in the solicitation and sale of pesticides and all claims and recommendations for the use of pesticides. The dealer license shall be subject to denial, suspension or revocation after a hearing for any violation of the Pesticide Control Act or regulations adopted thereunder, whether committed by the dealer or by an officer, agent or employee of the dealer.

History: 1953 Comp., § 45-25-13, enacted by Laws 1973, ch. 366, § 13.

ANNOTATIONS

Cross references. — For grounds for denial, suspension or revocation of license, *see* 76-4-23 NMSA 1978.

76-4-14. Pest management consultant.

No individual shall perform services as a pest management consultant without first obtaining from the department an annual license. Application for a license shall be on a form provided by the department and shall be accompanied by the prescribed fee. Licensed pesticide applicators and operators and employees of federal, state and county agencies, or municipalities, when acting in their official capacities, shall be exempt from this licensing provision.

History: 1953 Comp., § 45-25-14, enacted by Laws 1973, ch. 366, § 14.

76-4-15. Public pest management consultant.

A "public pest management consultant" means any individual who is employed by a governmental agency or municipality to act as a pest management consultant. No person shall act as a public pest management consultant without first obtaining an annual nonfee license from the department. Application for a license shall be on a form provided by the department. The nonfee license shall be valid only when the consultant is acting in that capacity as an employee of his governmental employer. Federal and state employees whose principal responsibilities are in pesticide research shall be exempt from this licensing provision while acting in their official capacities.

History: 1953 Comp., § 45-25-15, enacted by Laws 1973, ch. 366, § 15.

76-4-16. Examinations for pest management consultant license.

The department shall require each applicant for a pest management consultant license or a public pest management consultant license to demonstrate the applicant's knowledge of pesticide laws and regulations, pesticide hazards and the safe distribution, use, application and disposal of pesticides by satisfactorily passing a written examination for the classification for which he has applied, prior to issuing his license. The prescribed examination fee shall be paid for the initial examination and other examinations needed to qualify the applicant to perform services as a pest management consultant. The public pest management consultant shall not be required to pay the examination fee and an examination shall be administered upon request.

History: 1953 Comp., § 45-25-16, enacted by Laws 1973, ch. 366, § 16.

76-4-17. Commercial pesticide applicator license.

A. It is unlawful for any person to engage in the business of applying pesticides at any time to land not owned or occupied by him without a commercial pesticide applicator license issued by the department. The commercial pesticide applicator shall pay an annual prescribed fee for each license issued. Should any apparatus fail to pass inspection making it necessary for an additional inspection to be made, the department

shall require a prescribed inspection fee. In addition to the required inspection, additional inspections may be made to determine if equipment is properly calibrated and maintained in conformance with the Pesticide Control Act and regulations adopted pursuant thereto.

B. Application for a license shall be on a form provided by the department.

C. The department shall not issue a commercial pesticide applicator license until the applicant has passed an examination to demonstrate his knowledge of how to apply pesticides under the classification or classifications he has applied for, and his knowledge of the nature and effect of pesticides he may apply. The department shall charge the prescribed examination fee for the initial examination and other examinations needed to qualify the applicant to apply pesticides.

D. The department shall renew any applicant's license under the classification for which the applicant is certified; provided that the applicant's license is not under a suspension or revocation order and he has met the provisions of the Pesticide Control Act.

E. The department shall not issue a commercial applicator license if it has been determined that:

(1) the applicant has been convicted within the last five years of a felony involving fraud;

(2) the applicant has had revoked within the last two years a previous license authorized by the Pesticide Control Act;

(3) the applicant has been unable to satisfactorily fulfill the certification requirements; or

(4) [the applicant] has had any pesticide application or a license denied, revoked or suspended in any state in the last five years.

F. All applicants for a commercial applicator license shall meet at least one of the following requirements prior to being issued a license and shall file proof of compliance as specified by the department:

(1) documentation of two years of pesticide application experience in the category or related category for which application is being made; or

(2) documentation of one year of pesticide application experience in the category or related category for which application is being made and not less than twenty college credit hours in biological or agricultural sciences.

History: 1953 Comp., § 45-25-17, enacted by Laws 1973, ch. 366, § 17; 1979, ch. 394 § 4.

ANNOTATIONS

Bracketed material. — The bracketed material was inserted by the compiler and it is not part of the law.

Cross references. — For inspection of apparatus, *see* 76-4-26 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 101.

76-4-18. Operator license.

A. It is unlawful for any individual to act as an employee of a commercial pesticide applicator and apply pesticides without having obtained an operator license from the department.

B. The department shall issue an operator license when the applicant has passed an examination to demonstrate his ability to apply pesticides safely and effectively with the type of apparatus and in the classification for which he has applied. The department shall charge the prescribed examination fee for each examination administered.

C. The provisions of this section shall not apply to any individual who is a licensed commercial pesticide applicator.

History: 1953 Comp., § 45-25-18, enacted by Laws 1973, ch. 366, § 18; 1979, ch. 394, § 5.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 101.

76-4-19. Application of act to governmental entities; public applicator's license required.

A. A public applicator shall be subject to the provisions of the Pesticide Control Act and rules adopted pursuant to that act.

B. Public applicators shall be subject to examinations or other licensing provisions as provided in the Pesticide Control Act or by rule promulgated by the board. The department shall issue a limited license without fee to the public applicator who has qualified for the license. The public applicator license shall be valid only when the applicator is acting as an applicator applying pesticides used by federal, state, county or municipal agencies or municipal corporations. Government research personnel shall be exempt from this licensing requirement only when applying general use pesticides to experimental plots.

History: 1953 Comp., § 45-25-19, enacted by Laws 1973, ch. 366, § 19; 1979, ch. 394, § 6; 2009, ch. 101, § 2; 2009, ch. 109, § 2.

ANNOTATIONS

The 2009 amendment, effective June 19, 2009, in Subsection A, at the beginning of the sentence, deleted "All state agencies, federal agencies and municipal corporations or any other governmental agency", added "A public applicator"; and at the end of the sentence, deleted "thereunder concerning the application of pesticides unless exempt under other sections of the Pesticide Control Act"; and added "pursuant that act"; in Subsection B, after "Public applicators", deleted "for agencies listed in this section"; after "examinations", added "or other licensing provisions"; added "or by rule promulgated by the board; after "applicator applying", deleted "or supervising application of restricted use"; and after "pesticides used by", deleted "such entities"; and added "federal, state, county or municipal agencies or municipal corporations".

Laws 2009, ch. 101, § 2 and Laws 2009, ch. 109, § 2 enacted identical amendments to this section. The section was set out as amended by Laws 2009, ch. 109, § 2. *See* 12-1-8 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 43.

3 C.J.S. Agriculture § 101.

76-4-20. Private applicators.

A. No private applicator shall use a restricted use pesticide without first complying with the certification requirements determined by the department as necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator or other persons.

B. In determining these certification requirements, the board shall take into consideration standards of the United States environmental protection agency. Certification requirements for a private applicator to be certified to use restricted use pesticides may include but shall not be limited to the following:

(1) the applicant shall acknowledge that he understands and will abide by the label precautions by signing a dealer's pesticide register. The register shall include the name and address of the private applicator and other information as prescribed by the department. The dealer shall keep a record of all restricted use pesticides distributed to a private applicator;

(2) the applicant shall obtain a user permit prior to purchase and use of the pesticide. The department may issue restricted use pesticide permits to private applicators who have documented the crops, location and acreage on the permit for the seasonal or temporary period for which their permit is issued. User permits shall only be issued for registered or experimental uses and shall be subject to other limitations as specified by the department. The limitations may include limiting the areas of use, the timing or method of application and limiting the amount of the pesticide to that needed to cover the acreage to be treated;

(3) the applicant shall be required to pass a written examination demonstrating his competency with respect to the use and handling of the pesticide or pesticides covered by his certification prior to purchase and use of the product; and

(4) the applicant shall be required to obtain approval from the department for each application involving a specific risk to the environment. The applicant shall submit to the department an application form for a special review permit. The application shall include detailed information on the intended use, the responsible person in charge and the equipment and conditions under which the pesticide application is to be made. The department in reviewing the application for a special review permit may require additional restrictions such as on-site inspection or supervision.

C. The department shall charge the prescribed fee for each certification.

D. If a private applicator does not qualify, the department shall inform the applicant in writing.

E. Private applicator certification shall be valid for a period of not less than three years, established by the board.

History: 1953 Comp., § 45-25-20, enacted by Laws 1973, ch. 366, § 20; 1979, ch. 394, § 7.

76-4-20.1. Noncommercial applicator license.

A. A noncommercial applicator shall not use a restricted use or state restricted use pesticide without having a valid current noncommercial applicator license issued by the department for the license use

categories and subcategories in which the pesticide application is made.

B. Application for an original or renewal license shall be on a form prescribed by the department. An annual prescribed fee shall be charged for each noncommercial applicator license issued.

C. The department shall not issue a noncommercial applicator license until the applicant has passed a written certification examination to demonstrate to the department the applicant's knowledge of how to apply pesticides under the classifications for which the applicant has applied and the applicant's knowledge of the nature and effect of pesticides the applicant may apply under such classifications.

D. The department shall renew any applicant's license under the classification for which the applicant is certified; provided that the applicant's license is not under a suspension or revocation order and the applicant has complied with the provisions of the Pesticide Control Act.

E. Nothing in this section shall imply the right to apply pesticides for hire without first having obtained a commercial applicator license.

History: Laws 1979, ch. 394, § 8; 2009, ch. 101, § 3; 2009, ch. 109, § 3.

ANNOTATIONS

The 2009 amendment, effective June 19, 2009, in Subsection A, at the beginning of the sentence, deleted the phrase "Any person who is not a private applicator, commercial applicator or public applicator, except a person working under their direct supervision" and added the phrase "A noncommercial applicator".

Laws 2009, ch. 101, § 3 and Laws 2009, ch. 109, § 3 enacted identical amendments to this section. The section was set out as amended by Laws 2009, ch. 109, § 3. *See* 12-1-8 NMSA 1978.

76-4-21. Expiration date of licenses.

The board shall set by regulation the expiration date for the annual pesticide registration or any license provided for in the Pesticide Control Act.

History: 1953 Comp., § 45-25-21, enacted by Laws 1973, ch. 366, § 21; 1979, ch. 394, § 9.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 101.

76-4-22. Fees.

A. Fees for the registration of pesticides, the various licenses, inspection of apparatuses and examination of applicants required by the Pesticide Control Act shall be set by the board not to exceed the amount authorized below:

(1) annual registration fee for each pesticide or device registered, not more than $150;

(2) annual pesticide dealer license for each location or outlet within the state or, if there is no outlet in the state, for the principal out-of-state location or outlet, not more than $100;

(3) annual pest management consultant license, not more than $100;

(4) annual commercial pesticide applicator license, not more than $100;

(5) annual operator license, not more than $75.00;

(6) annual noncommercial applicator license, not more than $100;

(7) private applicator certification or renewal, not more than $25.00;

(8) additional inspection required to certify each unit of aircraft, ground or manual equipment that fails to pass inspection, not more than. $25.00;

and

(9) examination fee for each examination needed to qualify the applicant as a pest management consultant, commercial pesticide applicator, noncommercial applicator or operator or any combination thereof, not more than $20.00;

provided that the board may index the amount of a fee for inflation until July 1, 2031 using the consumer price index for all urban consumers: all items published by the United States department of labor.

B. If the application for the renewal of a pesticide registration or any annual license provided for in the Pesticide Control Act is not filed prior to the expiration date of the prior registration or license, the fee for renewal of registration or license shall be double the amount charged for the prior registration or license and shall be paid by the applicant before the renewal registration or license is issued. Any person holding a current valid license may renew the license for the next year without taking an examination unless the department determines that additional knowledge relating to the classification for which the applicant has applied makes a new examination necessary. However, if the license is not renewed within thirty days after expiration, the licensee shall be required to take new certification examinations.

History: 1953 Comp., § 45-25-22, enacted by Laws 1973, ch. 366, § 22; 1979, ch. 394, § 10; 2005, ch. 200, § 1; 2026, ch. 13, § 3.

ANNOTATIONS

The 2026 amendment, effective July 1, 2026, authorized the board of regents of New Mexico state university to impose increases to fees up to the rate of inflation measured in the consumer price index for all urban consumers through the end of fiscal year 2031, and made conforming amendments; in Subsection A, Paragraph A(9), after the semicolon, added the remainder of the paragraph; and in Subsection B, after

"double the amount" deleted "specified in this section" and added "charged for the prior registration or license".

The 2005 amendment, effective June 17, 2005, increased the registration fees in Subsection A(1) through (7) and (9).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 95.

76-4-23. Grounds for denial, suspension or revocation of license, permit or certification; acts constituting a violation of the Pesticide Control Act.

A. The department may deny application for any license, permit or certification or may suspend any license, permit or certification when it has reason to believe that the applicant for or the holder of such license, permit or certification has violated any of the provisions of Subsection B of this section.

B. It is a violation of the Pesticide Control Act for any person to:

(1) make a false or fraudulent claim through any media which misrepresents the effect of material or methods to be used;

(2) make a pesticide recommendation or to use a pesticide in a manner inconsistent with the labeling;

(3) apply known ineffective or improper materials;

(4) operate faulty or unsafe apparatus;

(5) operate in a faulty, careless or negligent manner;

(6) refuse or, after notice, neglect to comply with the provisions of the Pesticide Control Act or the rules and regulations adopted pursuant thereto;

(7) refuse or neglect to keep and maintain the records or to make reports when and as required by the Pesticide Control Act or rules and regulations adopted pursuant thereto;

(8) make false or fraudulent records, invoices or reports;

(9) engage in the business of applying a pesticide on the land of another without having a licensed applicator or operator in direct "on-the-job" supervision;

(10) use fraud or misrepresentation in making an application for a license or renewal of a license;

(11) refuse or neglect to comply with any limitation or restriction on or in a duly issued license or permit;

(12) aid or abet a licensed or an unlicensed person to evade any provision of the Pesticide Control Act, conspire with a licensed or an unlicensed person to evade the provisions of the Pesticide Control Act or allow one's license to be used by an unlicensed person;

(13) make false or misleading statements during or after an inspection concerning any infestation or infection of pests found on land;

(14) impersonate any state, county or city inspector or official;

(15) perform the type of pest control under the conditions and in the locality in which he operates or has operated, whether or not he has previously passed an examination, when not qualified;

(16) use, or supervise the use of, a pesticide which is restricted to use by certified applicators when not qualified as a certified applicator; or

(17) make pesticide recommendations or apply pesticides without having the proper certification or license.

C. Any person who has had a license, permit or certification denied, suspended or revoked by the department may request a hearing before the department. The request for a hearing shall be made within fifteen days of receipt of a certified letter notifying him of the department's action.

History: 1953 Comp., § 45-25-23, enacted by Laws 1973, ch. 366, § 23; 1979, ch. 394, § 11.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 20.

Liability of termite or other pest control or inspection contractor for work or representations, 32 A.L.R.4th 682.

76-4-24. Surety bond or insurance required of commercial pesticide applicators.

The department shall not issue a commercial pesticide applicator license until the applicant has furnished evidence of financial responsibility with the department consisting either of a surety bond or a liability insurance policy or certification thereof, protecting persons who may suffer legal damages as a result of the operations of the applicant. However, the surety bond or liability insurance policy need not apply to damages or injury to land being worked upon by the applicant. The department shall not accept a surety bond or liability insurance policy except from authorized insurers or surplus line brokers authorized to do business in the state.

A. The amount of the surety bond or liability insurance as provided for in this section shall be set by the board. The surety bond or liability insurance shall be maintained, at a sum not less than that specified by the board, at all times during the license period. The department shall be notified ten days prior to any reduction made at the request of the applicant or cancellation of the surety bond or liability insurance by the surety or insurer. The department may accept a liability insurance policy or surety bond in the proper sum which has a deductible clause in an amount prescribed by the board. If the applicant has not satisfied the requirements of the deductible amount in any prior legal claim, such deductible clause shall not be accepted by the department unless the applicant furnishes the department with a surety bond or liability insurance which shall satisfy the amount of the deductible pertaining to all claims that may arise in his application of pesticides.

B. The applicator license shall, whenever the surety bond or insurance policy of the licensee is reduced below the requirements of the Pesticide Control Act and regulations adopted pursuant thereto, be automatically suspended until the surety bond or insurance policy again meets these requirements. The department may retrieve the license plates or decal of the licensee during the period of automatic suspension

and return them only when the licensee has furnished the department with written proof that he is again in compliance.

C. Nothing in the Pesticide Control Act shall be construed to relieve any person from liability for any damage to the person or lands of another caused by the use of pesticides, even though such use conforms to the rules and regulations of the board.

History: 1953 Comp., § 45-25-24, enacted by Laws 1973, ch. 366, § 24.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 101.

76-4-25. Damaged person must file report of loss; contents; time of filing; effect of failure to file.

A. Any person suffering a loss or damage resulting from the use or application by others of any pesticide shall file with the department a verified report of loss setting forth, so far as known to the claimant, the following:

(1) the name and address of the claimant;

(2) the type of land alleged to be injured or damaged;

(3) the name of the person applying the pesticide and allegedly responsible;

(4) the name of the owner or occupant of the property for whom the pesticide application was made; and

(5) additional information as requested by the department.

B. The report must be filed within sixty days from the time that the loss or damage becomes known to the claimant. If a growing crop is alleged to have been damaged, the report must be filed prior to harvest of fifty percent of that crop, unless the loss or damage was not then known. The department may prepare a form to be furnished to persons making a report of alleged damages. This form shall contain other requirements as the department deems necessary. The department may, upon receipt of the alleged damage report, notify the licensee and the owner or lessee of the land or other person who may be charged with the responsibility, of the damages claimed, and furnish copies of the statements as may be requested. The department shall inspect damages whenever possible, and when they determine that the complaint has sufficient merit, they shall make the information available to the person claiming damage and to the person who is alleged to have caused the damage.

C. The filing of a report or the failure to file a report need not be alleged in any complaint which might be filed in a court of law, and the failure to file the report shall not be considered any bar to the maintenance of any action.

D. The failure to file the report shall not be a violation of this act. However, if the person failing to file the report is the only one injured from the use or application of a pesticide by others, the department may, when in

the public interest, refuse to hold a hearing for the denial, suspension or revocation of a license or permit issued under the Pesticide Control Act until the report is filed.

E. Where damage is alleged to have occurred, the claimant shall permit the department, the licensee and his representatives, such as bondsman or insurer, to observe and examine the lands or nontarget organism alleged to have been damaged. Failure of the claimant to permit the observation and examination of the damaged lands shall automatically bar the claim against the licensee.

History: 1953 Comp., § 45-25-25, enacted by Laws 1973, ch. 366, § 25.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 47.

Infliction of emotional distress: toxic exposure, 6 A.L.R.5th 162.

3 C.J.S. Agriculture § 86.

76-4-26. Inspection of equipment.

A. The department shall provide for an annual inspection of any equipment used for the application of pesticides by a commercial pesticide applicator and may require repairs or other changes before the equipment is used to apply pesticides. A list of requirements that the equipment shall meet shall be provided by the department.

B. Any piece of equipment which fails inspection shall have affixed to it an out-of-order seal. The equipment shall not be put back into service until it has passed reinspection and the out-of-order seal is removed by the department. A prescribed inspection fee shall be charged for each reinspection.

History: 1953 Comp., § 45-25-26, enacted by Laws 1973, ch. 366, § 26; 1979, ch. 394, § 12.

76-4-27. License plates or decals for apparatus.

Each licensed apparatus shall be identified by a license plate or decal furnished by the department, at no cost to the licensee. The license plate or decal shall be affixed in a location and manner upon the application apparatus as prescribed by the department.

History: 1953 Comp., § 45-25-27, enacted by Laws 1973, ch. 366, § 27.

76-4-28. Farmer or rancher exemption.

Except for the use of restricted use pesticides the provisions of the Pesticide Control Act relating to licenses and requirements for their issuance shall not apply to any farmer or rancher owner of a ground or manual apparatus applying pesticides for himself or his farmer or rancher neighbors, when he:

A. operates farm or ranch property and operates and maintains pesticide application equipment primarily for his own use;

B. is not regularly engaged in the business of applying pesticides for hire amounting to a principal or regular occupation and he does not publicly solicit business as a pesticide applicator; or

C. operates his pesticide application equipment only in the vicinity of his own property and for the accommodation of his neighbors.

History: 1953 Comp., § 45-25-28, enacted by Laws 1973, ch. 366, § 28.

ANNOTATIONS

76-4-29. Repealed.

ANNOTATIONS

Repeals. — Laws 1979, ch. 394, § 15, repealed 76-4-29 NMSA 1978, as enacted by Laws 1973, ch. 366, § 29, relating to the exemption of landscape gardeners from the provisions of the Pesticide Control Act.

76-4-30. Discarding and storing of pesticides and pesticide containers.

No person shall discard, transport or distribute any pesticide or pesticide container in a manner that may cause injury to humans, vegetation, crops, livestock, wildlife or beneficial insects or pollute any waterway.

History: 1953 Comp., § 45-25-30, enacted by Laws 1973, ch. 366, § 30.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 42.

76-4-31. Access to public or private premises.

A. For the purpose of carrying out the provisions of the Pesticide Control Act, the department is authorized upon presentation of proper identification and with consent of the owner or by court order, to enter any public or private premises, in order to:

(1) inspect any apparatus subject to the Pesticide Control Act and the premises on which the apparatus is kept or stored;

(2) inspect lands actually or reported to be exposed to pesticides;

(3) inspect storage or disposal areas;

(4) inspect or investigate complaints of injury to humans or land;

(5) sample pesticides being applied or to be applied; or

(6) sample land, including agricultural products, for pesticide residues.

B. If it appears that a pesticide apparatus or device fails to comply with the provisions of the Pesticide Control Act or regulations adopted thereunder, and if the department contemplates instituting proceedings against any person, the department shall cause notice to be given to the person. Any person so notified shall be given an opportunity to present his views, either orally or in writing, with regard to the contemplated proceedings. If thereafter, in the opinion of the department, it appears that the provisions of the Pesticide Control Act or regulations adopted thereunder have been violated by the person, the department shall refer a copy of the results of the analysis or the examination of the pesticide apparatus or device to the district attorney for the county in which the violation occurred. It is the duty of the district attorney to whom any violation of the Pesticide Control Act is reported to cause appropriate proceedings to be instituted and prosecute in a court of competent jurisdiction without delay.

C. Nothing in the Pesticide Control Act shall be construed as requiring the department to report, for prosecution or the institution of condemnation proceedings, minor violations of the Pesticide Control Act when the department believes that the public interest will be best served by a notice of warning in writing.

D. Should the department be denied access to any land where access was sought for the purposes set forth in the Pesticide Control Act, they may apply to any court of competent jurisdiction for a search warrant for the purpose requested.

History: 1953 Comp., § 45-25-31, enacted by Laws 1973, ch. 366, § 31.

ANNOTATIONS

Cross references. — For inspection of apparatus, *see* 76-4-26 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 42, 50.

3 C.J.S. Agriculture § 83.

76-4-32. Classification of licenses.

A. The department may classify licenses to be issued under the Pesticide Control Act. Such classifications may include recommending pesticides to be used in or on land, including but not limited to agricultural crops, ornamentals, structures and noncrop land or to treat regulated products or equipment. If the licensee has a classified license, he shall be limited to practicing within such classification. Each classification shall be subject to separate testing procedures and requirements. No person shall be required to pay an additional license fee if he desires to be licensed in one or all of the license classifications.

B. The department may classify pesticide applicator and operator licenses to be issued under the Pesticide Control Act. the classifications may include, but not be limited to pest control operations, fumigators, ornamental or agricultural pesticide applicators or right-of-way pesticide applicators. Separate classifications may be specified for ground, aerial or manual methods used by any licensee to apply pesticides or to the use of pesticides to control pests. Each classification shall be subject to separate testing procedures and

requirements. No person shall be required to pay an additional license fee if the person desires to be licensed in one or all of the license classifications.

History: 1953 Comp., § 45-25-32, enacted by Laws 1973, ch. 366, § 32.

ANNOTATIONS

76-4-33. Records.

A. Any person issued a license or permit under the provisions of the Pesticide Control Act shall keep such records as required by regulation of the board.

B. Commercial pesticide applicators licensed under the provisions of the Pesticide Control Act shall keep such records as prescribed by regulation of the board.

C. The department shall have access to the records at any reasonable time to copy or make copies of the records for the purpose of carrying out the provisions of the Pesticide Control Act. Unless required for the enforcement of the Pesticide Control Act, the information shall be confidential and, if summarized, shall not identify any individual person.

History: 1953 Comp., § 45-25-33, enacted by Laws 1973, ch. 366, § 33.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 95.

76-4-34. Penalties.

A. Any person violating any provision or requirement of the Pesticide Control Act or regulations adopted by the board pursuant to that act is guilty of a petty misdemeanor.

B. In addition to any other penalties imposed by the Pesticide Control Act, any person who willfully or repeatedly violates any provision of that act may be assessed by the court a civil penalty not to exceed one thousand dollars ($1,000) for each violation.

C. The board may bring an action to enjoin the violation or threatened violation of any provision of the Pesticide Control Act or any regulation made pursuant thereto in a court of competent jurisdiction of the county in which the violation occurs or is about to occur.

D. The department, acting as a law enforcement officer, is authorized to file a criminal complaint in a magistrate court for violations of the Pesticide Control Act or regulations adopted pursuant thereto and shall not be required to pay the docket fee.

History: 1953 Comp., § 45-25-34, enacted by Laws 1973, ch. 366, § 34; 1979, ch. 394, § 13.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 42, 50, 51.

3 C.J.S. Agriculture § 7.

76-4-35. Persons exempted from certain penalties.

A. The penalties provided for violations of Paragraphs (1) through (5) of Subsection A of Section 5 [76-4-5 NMSA 1978] of the Pesticide Control Act shall not apply to:

(1) any carrier while lawfully engaged in transporting a pesticide within this state, if such carrier shall, upon request, permit the department to copy all records showing the transactions in and movement of the pesticides or devices;

(2) public officials of this state and the federal government while engaged in the performance of their official duties in administering state or federal pesticide laws or regulations or while engaged in pesticide research; or

(3) the manufacturer or shipper of a pesticide for experimental use only by or under the supervision of an agency of this state or of the federal government authorized by law to conduct research in the field of pesticides if the manufacturer or shipper holds a valid experimental use permit issued by the department and by the United States environmental protection agency.

B. No pesticide or device shall be deemed in violation of the Pesticide Control Act when intended solely for export to a foreign country and when prepared or packed according to the specifications or directions of the purchaser. If not so exported, all the provisions of the Pesticide Control Act and regulations adopted thereunder shall apply.

History: 1953 Comp., § 45-25-35, enacted by Laws 1973, ch. 366, § 35.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 21, 66.

3 C.J.S. Agriculture § 53.

76-4-36. Repealed.

History: 1953 Comp., § 45-25-36, enacted by Laws 1973, ch. 366, § 36; 1977, ch. 253, § 49; 1978, ch. 39, § 1; 1979, ch. 394, § 14; 1983, ch. 296, § 29; repealed Laws 2005, ch. 235, § 1.

ANNOTATIONS

Repeals. — Laws 2005, ch. 235, § 1 repealed 76-4-36 NMSA 1978, as enacted by Laws 1973, ch. 366, § 36, relating to the pesticide advisory board, effective June 17, 2005. For provisions of former section, *see*

the 2004 NMSA 1978 on *NMOneSource.com*.

76-4-37. Publication of information.

The department may publish, in the form it deems proper, results of products analyzed, based on official samples as compared with the guaranteed analysis and information concerning the distribution and use of pesticides. Individual distribution and use information shall not be a public record. The department may also publish results of samples analyzed for pesticide residues.

History: 1953 Comp., § 45-25-37, enacted by Laws 1973, ch. 366, § 37.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 95.

76-4-38. Cooperation.

The department may cooperate, receive grants-in-aid and enter into cooperative agreements with any agency of the federal government, of this state or its subdivisions, or with any agency of another state, in order to:

A. secure uniformity of regulations;

B. enter into cooperative agreements with the United States environmental protection agency to register pesticides under the authority of the Pesticide Control Act and the federal Environmental Pesticide Control Act;

C. cooperate in the enforcement of the federal Environmental Pesticide Control Act and regulations through the use of state or federal personnel and facilities or both and to implement cooperative enforcement programs including but not limited to the registration of pesticides, collection and analysis of pesticides and devices, inspection of storage facilities and certification of applicators;

D. enter into contracts with other agencies including federal agencies for the purpose of training pesticide dealers, pesticide management consultants, pesticide applicators or operators;

E. publish information and conduct short courses on the storage, transportation, distribution, application, use, registration and disposal of pesticides and devices and environmental implications thereof;

F. enter into contracts for either monitoring pesticides, or analyzing land, including agricultural products that will be consumed by any living organism other than plants, for pesticide residues, or both;

G. prepare and submit a state plan to meet federal certification standards including issuing experimental use permits; and

H. regulate pesticide applicators and operators.

History: 1953 Comp., § 45-25-38, enacted by Laws 1973, ch. 366, § 38.

ANNOTATIONS

Cross references. — For the federal Environmental Pesticide Control Act, *see* 7 U.S.C. § 136 et seq.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 22 to 37, 43.

3 C.J.S. Agriculture §§ 25 to 56.

76-4-39. Disposition of funds.

All moneys received by the department under the provisions of the Pesticide Control Act shall be expended for the purpose of carrying out the provisions of the Pesticide Control Act.

History: 1953 Comp., § 45-25-39, enacted by Laws 1973, ch. 366, § 39.

ANNOTATIONS

Severability. — Laws 1973, ch. 366, § 43, provided for the severability of the act if any part or application thereof is held invalid.

Comments

NMDA did not receive any written comments.

Hearing Sign-In Sheets

Japanese Beetle +

PESTICIDES RULEMAKING HEARING

PROJECT: NMDA Rulemaking **MEETING DATE:** August 4, 2026

FACILITATOR: Les Owen/Brad Lewis **LOCATION:** ~~Albuquerque~~ Las Cruces, NM

NAME	PHONE (OPTIONAL)	EMAIL (OPTIONAL)
Teri Cates	575-740-2980	tericates@yahoo.com
MARGARET Adams	575 635-5476	peggy.adams@bugyman.com

Japanese Beetle Quarantine Rule +

PESTICIDES RULEMAKING HEARING

PROJECT:	NMDA Rulemaking	**MEETING DATE:**	August 6, 2026
FACILITATOR:	Les Owen/Brad Lewis	**LOCATION:**	Albuquerque, NM

NAME	PHONE (OPTIONAL)	EMAIL (OPTIONAL)
Alan ~~Feuer~~ Feuer	505 918 3121 ~~301~~	ALAN@PPCABQ.Com
Kyleigh Serna		kserna@plantworldinc.com
Dixie Mussaw	505-227-1701	Dixie.Mussaw@heritageppg.com
Chris Benavidez	505-254-1133	cbenavidez@plantworldinc.com
John Crowley	505.307.8695	John.Crowley@Monrovia.Com

SIGNATURE: In witness whereof, we have caused the seal of the Board of Regents of New Mexico State University to be affixed this 1st day of October 2026, for approval of:

Proposed Repeal and Replacement of the Continuing Education Units for Pesticide Applicators Rule, Title 21, Chapter 17, Part 53 of the New Mexico Administrative Code (21.17.53 NMAC).

_____

Ammu Devasthali, Chair
Board of Regents
New Mexico State University

Attest:

_____

Christopher Saucedo, Sec./Treasurer
Board of Regents
New Mexico State University

Board of Regents Meeting
Meeting Date: October 1, 2026
Agenda Item Cover Page

Agenda Item # IX.C

☐ Action Item
☒ Consent Item
☐ Informational Item

Presented By:
Jeff M. Witte
Director/Secretary New Mexico Department of Agriculture (NMDA)

Agenda Item:

Proposed Repeal and Replacement of the Control of Wood Destroying Pests Rule, Title 21, Chapter 17, Part 51 of the New Mexico Administrative Code (21.17.51 NMAC)

Requested Action of the Board of Regents:

Approval of Repeal and Replacement of 21.17.51 NMAC, Control of Wood Destroying Pests Rule.

Executive Summary:

The New Mexico Department of Agriculture (NMDA) held two hearings regarding the proposed repeal and replacement of 21.17.51 NMAC. On Tuesday, August 4, 2026, at 9 a.m. a public video/telephonic and in-person hearing was held at Gerald Thomas Hall Auditorium (Rm 194), New Mexico State University, located at 940 College Drive in Las Cruces, NM 88003. On Thursday, August 6, 2026, at 9 a.m. an in-person hearing was held at the CNM Workforce Training Center located at 5600 Eagle Rock Ave, NE in Albuquerque, NM 87113.

The Rulemaking Notice was published in the New Mexico Register on June 23, 2026. Notice was provided to the Sunshine Portal, in the Santa Fe New Mexican (both English and Spanish), the Albuquerque Journal, The Las Cruces Sun News, and the NMDA website. Notification and the proposed rule were sent to the New Mexico Economic Development's Small Business Regulatory Advisory Commission and to Legislative Council Service. NMDA has not received findings from either. Notice of public hearings was also sent to pesticide licensed individuals and businesses impacted by the amendments; to the Pest Management Association, a state industry organization representing licensed pesticide applicators; and to the Household Consumer Product Association, a national industry organization representing pesticide manufacturers.

The hearing officer provided the following information for my consideration. I agree with the hearing officer's recommendation and thereby recommend the following for your consideration.

Hearing Officer's Report

This memorandum serves as a summary of the hearings conducted on August 4 and 6, 2026. The information is presented for your review and to assist you in formulating a recommendation to the New Mexico State University Board of Regents regarding the adoption of the proposed repeal and replacement of the Control of Wood Destroying Pests Rule, Title 21, Chapter 17, Part 51 of the New Mexico Administrative Code.

Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: removal of restricted use statement to reflect that not all termiticides are restricted use products; alignment of terms with those in the Pesticide Control Act, 76.4.18 et. seq. NMSA 1978; and clarification of license types that require direct supervision of employees applying pesticides.

Given the extensive outreach that was done and consideration of the written comment received, it is my recommendation that the proposed repeal and replacement of 21.17.51 NMAC be adopted with changes to reflect that the scope of work performed by applicators is broader than termites. There are 5 occurrences of "termite operator" in the rule that are changed to "wood destroying pest operator" in the attached final version of the rule.

References:

Section 76-1-2C NMSA 1978, authorizes the board of regents of New Mexico State University, relative to the New Mexico Department of Agriculture, the authority to adopt and file in compliance with the State Rules Act [Chapter 14, Article 4 NMSA 1978], regulations as may be necessary to carry out its duties.

Prior Approvals:

Agenda Item Approved By:

Each office may determine required signatures (if any). All items should be routed through the President's Office, University General Counsel, or the Secretary of NMDA as appropriate.



9/15/2026

_____ _____

Jeff M. Witte Date

Director/Secretary

RULEMAKING PACKET- BOARD OF REGENTS

Control of Wood Destroying Pests

NMDA
New Mexico Department of Agriculture

Official Record

New Mexico Department of Agriculture

Repeal and Replace 21.17.51 NMAC

NMDA Rulemaking

October 1, 2026

NMDA
New Mexico Department of Agriculture

NMDA Rulemaking
21.17.51 NMAC

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Director/Secretary Recommendation Memo

NEW MEXICO DEPARTMENT OF AGRICULTURE
Office of the Director/Secretary
MSC 3189
New Mexico State University
P.O. Box 30005
Las Cruces, NM 88003-8005
Phone: (575) 649-0505

September 10, 2026

MEMORANDUM

TO: New Mexico State University Board of Regents

FROM: Jeff M. Witte, Director/Secretary

SUBJECT: Recommendation to Adopt the Hearing Officer's Recommendation
RE: New Mexico Department of Agriculture Hearings on Proposed Repeal and Replacement of the Control of Wood Destroying Pests Rule, Title 21, Chapter 17, Part 51 of the New Mexico Administrative Code (21.17.51 NMAC) (Attached)

BACKGROUND INFORMATION

The New Mexico Department of agriculture (NMDA) held two hearings regarding the proposed repeal and replacement of 21.17.51 NMAC, Control of Wood Destroying Pests. On Tuesday, August 4, 2026, at 9 a.m. a public video/telephonic and in-person hearing was held at Gerald Thomas Hall Auditorium (Rm 194), New Mexico State University, located at 940 College Drive in Las Cruces, NM 88003. On Thursday, August 6, 2026, at 9 a.m. an in-person hearing was held at the CNM Workforce Training Center located at 5600 Eagle Rock Ave, NE in Albuquerque, NM 87113.

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The hearing officer provided the following information for my consideration. I agree with the hearing officer's recommendation and thereby recommend the following for your consideration.

HEARING OFFICER'S REPORT

This memorandum serves as a summary of the hearings conducted on August 4 and 6, 2026. The information is presented for your review and to assist you in formulating a recommendation to the New Mexico State University Board of Regents regarding the adoption of the proposed repeal and replacement of the Control of Wood Destroying Pests Rule, Title 21, Chapter 17, Part 51 of the New Mexico Administrative Code.

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Given the extensive outreach that was done and consideration of the written comment received, it is my recommendation that the proposed repeal and replacement of 21.17.51 NMAC be adopted with changes to reflect that the scope of work performed by applicators is broader than termites. There are 5 occurrences of "termite operator" in the rule that are changed to "wood destroying pest operator" in the attached final version of the rule.

Initial Proposed Rule

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 17 PEST, DISEASE, AND WEED CONTROL
PART 51 CONTROL OF WOOD DESTROYING PESTS

21.17.51.1 ISSUING AGENCY: New Mexico State University, New Mexico Department of Agriculture
[7/1/1997; 21.17.51.1 NMAC - Rn & A, 21 NMAC 17.51.1, 5/29/2009]
[MSC 3189, Box 30005, Las Cruces, New Mexico 88003-8005, Telephone No. (575) 646-3007]

21.17.51.2 SCOPE: Part 51 shall apply to all commercial applicators applying pesticides in structures for the control of wood destroying pests or persons making recommendations for [~~restricted use~~] pesticides for the control of wood destroying pests in structures.
[7/1/1997; 21.17.51.2 NMAC - Rn, 21 NMAC 17.51.2, 5/29/2009]

21.17.51.3 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; 21.17.51.3 NMAC - Rn, 21 NMAC 17.51.3, 5/29/2009]

21.17.51.4 DURATION: Permanent.
[7/1/1997; 21.17.51.4 NMAC - Rn, 21 NMAC 17.51.4, 5/29/2009]

21.17.51.5 EFFECTIVE DATE: [~~July 1, 1997~~] April 01, 2027
[7/1/1997; 21.17.51.5 NMAC - Rn, 21 NMAC 17.51.5, 5/29/2009]

21.17.51.6 OBJECTIVE: The objective of Part 51 of Chapter 17 is to establish certification, supervision, and record keeping requirements for persons treating structures for wood destroying organisms, principally termites.
[7/1/1997; 21.17.51.6 NMAC - Rn, 21 NMAC 17.51.6, 5/29/2009]

21.17.51.7 DEFINITIONS: [**RESERVED**]

21.17.51.8 TESTING AND EXPERIENCE REQUIREMENTS:

A. Certified applicators shall have at least one year of experience in the classification of wood destroying pest control, have attended four hours of approved training and pass the required certification examination in category 7D, wood destroying pest control, and shall attend four hours of approved training annually thereafter.

B. Termite service technicians shall have attended four hours of initial, approved training and pass a special test on the proper use for controlling wood destroying pests. Furthermore, termite service technicians shall attend four hours of approved training annually thereafter.

C. Any person who performs inspections for wood destroying pests shall be licensed as a termite service technician, pest management consultant or commercial applicator in category 7D, and shall meet the training requirements in Subsection A of 21.17.51.8 NMAC.

D. Failure to meet the annual training requirements shall result in loss of certification in category 7D.
[7/1/1997; 21.17.51.8 NMAC - Rn, 21 NMAC 17.51.8, 5/29/2009]

21.17.51.9 DIRECT SUPERVISION: No [~~restricted use~~] pesticide shall be recommended, mixed or applied for the control of wood destroying pests except by an applicator, pest management consultant, or licensed termite service technician certified in category 7D, wood destroying pest control [~~, or a licensed termite service technician~~].
[7/1/1997; 21.17.51.9 NMAC - Rn, 21 NMAC 17.51.9, 5/29/2009]

21.17.51.10 RECORDS:

A. In addition to any other records required under the Pesticide Control Act, Chapter 76, Article 4, Sections 1 through 39, NMSA 1978 Compilation, each person certified in category 7D -- wood destroying pest control shall keep the following:

(1) name of the person for whom the pesticide was applied;

(2) mailing address of the person for whom the pesticide was applied;

(3) location of the treated property;

(4) brand name(s) and U.S. environmental protection agency registration number(s) of the pesticide(s);

(5) concentration expressed in percentage by weight and volume (gallons) of the pesticide applied;

(6) name of the certified applicator or termite service technician who was in direct supervision of the application at the job site;

(7) detailed drawing on graph paper of the foundation plan of the structure treated showing the type of building construction and the areas treated.

B. Records shall be accessible to the department for inspection and copying during normal business hours.

[7/1/1997; 21.17.51.10 NMAC - Rn, 21 NMAC 17.51.10, 5/29/2009]

HISTORY OF 21.17.51 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 83-5, Control of Wood Destroying Pests, filed 12/13/1983.

NMDA Rule 89-1, Control of Wood Destroying Pests, filed 3/30/1989.

History Of Repealed Material: [RESERVED]

Final Adopted Rule

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 17 PEST, DISEASE, AND WEED CONTROL
PART 51 CONTROL OF WOOD DESTROYING PESTS

21.17.51.1 ISSUING AGENCY: New Mexico State University, New Mexico Department of Agriculture
[7/1/1997; 21.17.51.1 NMAC - Rn & A, 21 NMAC 17.51.1, 5/29/2009]
[MSC 3189, Box 30005, Las Cruces, New Mexico 88003-8005, Telephone No. (575) 646-3007]

21.17.51.2 SCOPE: Part 51 shall apply to all commercial applicators applying pesticides in structures for the control of wood destroying pests or persons making recommendations for pesticides for the control of wood destroying pests in structures.
[7/1/1997; 21.17.51.2 NMAC - Rn, 21 NMAC 17.51.2, 5/29/2009]

21.17.51.3 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; 21.17.51.3 NMAC - Rn, 21 NMAC 17.51.3, 5/29/2009]

21.17.51.4 DURATION: Permanent.
[7/1/1997; 21.17.51.4 NMAC - Rn, 21 NMAC 17.51.4, 5/29/2009]

21.17.51.5 EFFECTIVE DATE: April 01, 2027
[7/1/1997; 21.17.51.5 NMAC - Rn, 21 NMAC 17.51.5, 5/29/2009]

21.17.51.6 OBJECTIVE: The objective of Part 51 of Chapter 17 is to establish certification, supervision, and record keeping requirements for persons treating structures for wood destroying organisms, principally termites.
[7/1/1997; 21.17.51.6 NMAC - Rn, 21 NMAC 17.51.6, 5/29/2009]

21.17.51.7 DEFINITIONS: [**RESERVED**]

21.17.51.8 TESTING AND EXPERIENCE REQUIREMENTS:

A. Certified applicators shall have at least one year of experience in the classification of wood destroying pest control, have attended four hours of approved training and pass the required certification examination in category 7D, wood destroying pest control, and shall attend four hours of approved training annually thereafter.

B. Wood destroying pest operators shall have attended four hours of initial, approved training and pass a special test on the proper use for controlling wood destroying pests. Furthermore, wood destroying pest operators shall attend four hours of approved training annually thereafter.

C. Any person who performs inspections for wood destroying pests shall be licensed as a wood destroying pest operator, pest management consultant or commercial applicator in category 7D, and shall meet the training requirements in Subsection A of 21.17.51.8 NMAC.

D. Failure to meet the annual training requirements shall result in loss of certification in category 7D.
[7/1/1997; 21.17.51.8 NMAC - Rn, 21 NMAC 17.51.8, 5/29/2009]

21.17.51.9 DIRECT SUPERVISION: No pesticide shall be recommended, mixed or applied for the control of wood destroying pests except by an applicator, pest management consultant, public pest management consultant, or licensed wood destroying pest operator certified in category 7D, wood destroying pest control.
[7/1/1997; 21.17.51.9 NMAC - Rn, 21 NMAC 17.51.9, 5/29/2009]

21.17.51.10 RECORDS:

A. In addition to any other records required under the Pesticide Control Act, Chapter 76, Article 4, Sections 1 through 39, NMSA 1978 Compilation, each person certified in category 7D -- wood destroying pest control shall keep the following:

(1) name of the person for whom the pesticide was applied;
(2) mailing address of the person for whom the pesticide was applied;
(3) location of the treated property;

(4) brand name(s) and U.S. environmental protection agency registration number(s) of the pesticide(s);

(5) concentration expressed in percentage by weight and volume (gallons) of the pesticide applied;

(6) name of the certified applicator or wood destroying pest operator who was in direct supervision of the application at the job site;

(7) detailed drawing on graph paper of the foundation plan of the structure treated showing the type of building construction and the areas treated.

B. Records shall be accessible to the department for inspection and copying during normal business hours.

[7/1/1997; 21.17.51.10 NMAC - Rn, 21 NMAC 17.51.10, 5/29/2009]

HISTORY OF 21.17.51 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 83-5, Control of Wood Destroying Pests, filed 12/13/1983.

NMDA Rule 89-1, Control of Wood Destroying Pests, filed 3/30/1989.

History Of Repealed Material: [RESERVED]

Hearing Officer Recommendation Memo

NEW MEXICO DEPARTMENT OF AGRICULTURE
Office of the Director/Secretary
MSC 3189
New Mexico State University
P.O. Box 30005
Las Cruces, NM 88003-8005
Phone: (575) 649-0505

September 4, 2026

MEMORANDUM

TO: Director/Secretary Jeff M. Witte

FROM: Les Owen, Deputy Director – Hearing Officer

SUBJECT: Hearing Officer Report – RE: New Mexico Department of Agriculture Hearing on Proposed Repeal and Replacement of 21.17.51 NMAC, Control of Wood Destroying Pests.

BACKGROUND INFORMATION

The New Mexico Department of agriculture (NMDA) held two hearings regarding the proposed repeal and replacement of 21.17.51 NMAC, Control of Wood Destroying Pests. On Tuesday, August 4, 2026, at 9 a.m. a public video/telephonic and in-person hearing was held at Gerald Thomas Hall Auditorium (Rm 194), New Mexico State University, located at 940 College Drive in Las Cruces, NM 88003. On Thursday, August 6, 2026, at 9 a.m. an in-person hearing was held at the CNM Workforce Training Center located at 5600 Eagle Rock Ave, NE in Albuquerque, NM 87113.

The Rulemaking Notice was published in the New Mexico Register on June 23, 2026. Notice was provided to the Sunshine Portal, in the Santa Fe New Mexican (both English and Spanish), the Albuquerque Journal, The Las Cruces Sun News, and the NMDA website. Notification and the proposed rules were sent to the New Mexico Economic Development's Small Business Regulatory Advisory Commission and to Legislative Council Service. NMDA has not received findings from either. Notice of public hearings was also sent to pesticide licensed individuals and businesses impacted by the amendments; to the Pest Management Association, a state industry organization representing licensed pesticide applicators; and to the Household Consumer Product Association, a national industry organization representing pesticide manufacturers.

The hearing officer provides the following information for consideration by NMDA's director/secretary.

SUMMARY OF PRIMARY PROPOSED RULE CHANGES

Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: removal of restricted use statement to reflect that not all termiticides are restricted use products; alignment of terms with those in the Pesticide Control Act, 76.4.18 et. seq. NMSA 1978; and clarification of license types that require direct supervision of employees applying pesticides.

See Exhibit 1 for the strikethrough version of 21.17.51 NMAC, Control of Wood Destroying Pests and Exhibit 2 for the rule with integrated changes that these hearings cover.

PUBLIC COMMENT

There were 8 virtual and 1 in-person participants at the hearing held in Las Cruces and 5 in-person at the Albuquerque hearing. One written comment was submitted online and is included below. No oral public comments were received at either location or online.

Name: Alan Feuer, ACE Technical and Leadership Consultant Associate Certified Entomologist Emeritus

Email: alan@ppcabq.com
Submitted on: June 24, 2026, 9:43 AM

Comment: I make the following suggestions, all based on the 7D rules update.

1. For consistency, perhaps consider changing the term "licensed termite service technician" to "wood destroying pest operator". This aligns with the term "operator" used elsewhere in the rules. Additionally, replacing "termite" with "wood destroying pest management" would clarify that this role is NOT just for termites.
2. Perhaps this is also the time to better define the recordkeeping expectations for the "detailed drawing on graph paper," which has been an issue for quite some time. I might suggest the following details.
    1. For all control efforts targeting wood-destroying organisms that involve pesticide use, a detailed drawing on graph paper is required. This drawing must be to scale, with linear measurements accurate within 5% (e.g., a 50-foot measurement must be recorded within +/- 2.5 feet). Additionally the following details must be included.
        1. All foundation details must include the type (monolithic, floating, crawl, basement), footing depth, interior foundation breaks and elevation changes (at garages, sunken rooms, additions, etc.) and any other treated elements such as crawl space piers, plumbing stacks and penetrations, interior control joints and settlement cracks.
        2. List all infestation points identified on the date of treatment, including the type of wood destroying organism the treatment was intended to manage.

3. All treatment points and locations for pest control must clearly indicate the control measure or method used.
4. Identify any areas of the structure not treated to label specifications/requirements and the reasons why.

HEARING OFFICER'S CONCLUSION

This memorandum serves as a summary of the hearings conducted on August 4 and 6, 2026. The information is presented for your review and to assist you in formulating a recommendation to the New Mexico State University Board of Regents regarding the adoption of the proposed repeal and replacement of the Control of Wood Destroying Pests Rule, Title 21, Chapter 17, Part 51 of the New Mexico Administrative Code.

Given the extensive outreach that was done and consideration of the written comment received, it is my recommendation that the proposed repeal and replacement of 21.17.51 NMAC be adopted with changes to reflect that the scope of work performed by applicators is broader than termites. There are 5 occurrences of "termite operator" in the rule that are changed to "wood destroying pest operator" as indicated by being highlighted in Exhibit 2.

Please contact me if you have any questions.

EXHIBIT 1

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 17 PEST, DISEASE, AND WEED CONTROL
PART 51 CONTROL OF WOOD DESTROYING PESTS

21.17.51.1 ISSUING AGENCY: New Mexico State University, New Mexico Department of Agriculture
[7/1/1997; 21.17.51.1 NMAC - Rn & A, 21 NMAC 17.51.1, 5/29/2009]
[MSC 3189, Box 30005, Las Cruces, New Mexico 88003-8005, Telephone No. (575) 646-3007]

21.17.51.2 SCOPE: Part 51 shall apply to all commercial applicators applying pesticides in structures for the control of wood destroying pests or persons making recommendations for [~~restricted use~~] pesticides for the control of wood destroying pests in structures.
[7/1/1997; 21.17.51.2 NMAC - Rn, 21 NMAC 17.51.2, 5/29/2009]

21.17.51.3 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; 21.17.51.3 NMAC - Rn, 21 NMAC 17.51.3, 5/29/2009]

21.17.51.4 DURATION: Permanent.
[7/1/1997; 21.17.51.4 NMAC - Rn, 21 NMAC 17.51.4, 5/29/2009]

21.17.51.5 EFFECTIVE DATE: [~~July 1, 1997~~] April 01, 2027
[7/1/1997; 21.17.51.5 NMAC - Rn, 21 NMAC 17.51.5, 5/29/2009]

21.17.51.6 OBJECTIVE: The objective of Part 51 of Chapter 17 is to establish certification, supervision, and record keeping requirements for persons treating structures for wood destroying organisms, principally termites.
[7/1/1997; 21.17.51.6 NMAC - Rn, 21 NMAC 17.51.6, 5/29/2009]

21.17.51.7 DEFINITIONS: [**RESERVED**]

21.17.51.8 TESTING AND EXPERIENCE REQUIREMENTS:

A. Certified applicators shall have at least one year of experience in the classification of wood destroying pest control, have attended four hours of approved training and pass the required certification examination in category 7D, wood destroying pest control, and shall attend four hours of approved training annually thereafter.

B. Termite service technicians shall have attended four hours of initial, approved training and pass a special test on the proper use for controlling wood destroying pests. Furthermore, termite service technicians shall attend four hours of approved training annually thereafter.

C. Any person who performs inspections for wood destroying pests shall be licensed as a termite service technician, pest management consultant or commercial applicator in category 7D, and shall meet the training requirements in Subsection A of 21.17.51.8 NMAC.

D. Failure to meet the annual training requirements shall result in loss of certification in category 7D.
[7/1/1997; 21.17.51.8 NMAC - Rn, 21 NMAC 17.51.8, 5/29/2009]

21.17.51.9 DIRECT SUPERVISION: No [~~restricted use~~] pesticide shall be recommended, mixed or applied for the control of wood destroying pests except by an applicator, pest management consultant, public pest management consultant, or licensed termite operator certified in category 7D, wood destroying pest control [~~, or a licensed termite service technician~~].
[7/1/1997; 21.17.51.9 NMAC - Rn, 21 NMAC 17.51.9, 5/29/2009]

21.17.51.10 RECORDS:

A. In addition to any other records required under the Pesticide Control Act, Chapter 76, Article 4, Sections 1 through 39, NMSA 1978 Compilation, each person certified in category 7D -- wood destroying pest control shall keep the following:

(1) name of the person for whom the pesticide was applied;

(2) mailing address of the person for whom the pesticide was applied;

(3) location of the treated property;

(4) brand name(s) and U.S. environmental protection agency registration number(s) of the pesticide(s);

(5) concentration expressed in percentage by weight and volume (gallons) of the pesticide applied;

(6) name of the certified applicator or termite service technician who was in direct supervision of the application at the job site;

(7) detailed drawing on graph paper of the foundation plan of the structure treated showing the type of building construction and the areas treated.

B. Records shall be accessible to the department for inspection and copying during normal business hours.

[7/1/1997; 21.17.51.10 NMAC - Rn, 21 NMAC 17.51.10, 5/29/2009]

HISTORY OF 21.17.51 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 83-5, Control of Wood Destroying Pests, filed 12/13/1983.

NMDA Rule 89-1, Control of Wood Destroying Pests, filed 3/30/1989.

History Of Repealed Material: [RESERVED]

EXHIBIT 2

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 17 PEST, DISEASE, AND WEED CONTROL
PART 51 CONTROL OF WOOD DESTROYING PESTS

21.17.51.1 ISSUING AGENCY: New Mexico State University, New Mexico Department of Agriculture
[7/1/1997; 21.17.51.1 NMAC - Rn & A, 21 NMAC 17.51.1, 5/29/2009]
[MSC 3189, Box 30005, Las Cruces, New Mexico 88003-8005, Telephone No. (575) 646-3007]

21.17.51.2 SCOPE: Part 51 shall apply to all commercial applicators applying pesticides in structures for the control of wood destroying pests or persons making recommendations for pesticides for the control of wood destroying pests in structures.
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21.17.51.3 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; 21.17.51.3 NMAC - Rn, 21 NMAC 17.51.3, 5/29/2009]

21.17.51.4 DURATION: Permanent.
[7/1/1997; 21.17.51.4 NMAC - Rn, 21 NMAC 17.51.4, 5/29/2009]

21.17.51.5 EFFECTIVE DATE: April 01, 2027
[7/1/1997; 21.17.51.5 NMAC - Rn, 21 NMAC 17.51.5, 5/29/2009]

21.17.51.6 OBJECTIVE: The objective of Part 51 of Chapter 17 is to establish certification, supervision, and record keeping requirements for persons treating structures for wood destroying organisms, principally termites.
[7/1/1997; 21.17.51.6 NMAC - Rn, 21 NMAC 17.51.6, 5/29/2009]

21.17.51.7 DEFINITIONS: [**RESERVED**]

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D. Failure to meet the annual training requirements shall result in loss of certification in category 7D.
[7/1/1997; 21.17.51.8 NMAC - Rn, 21 NMAC 17.51.8, 5/29/2009]

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[7/1/1997; 21.17.51.9 NMAC - Rn, 21 NMAC 17.51.9, 5/29/2009]

21.17.51.10 RECORDS:

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(2) mailing address of the person for whom the pesticide was applied;

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(4) brand name(s) and U.S. environmental protection agency registration number(s) of the pesticide(s);

(5) concentration expressed in percentage by weight and volume (gallons) of the pesticide applied;

(6) name of the certified applicator or wood destroying pest operator who was in direct supervision of the application at the job site;

(7) detailed drawing on graph paper of the foundation plan of the structure treated showing the type of building construction and the areas treated.

B. Records shall be accessible to the department for inspection and copying during normal business hours.

[7/1/1997; 21.17.51.10 NMAC - Rn, 21 NMAC 17.51.10, 5/29/2009]

HISTORY OF 21.17.51 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 83-5, Control of Wood Destroying Pests, filed 12/13/1983.

NMDA Rule 89-1, Control of Wood Destroying Pests, filed 3/30/1989.

History Of Repealed Material: [RESERVED]

Hearing Transcript - August 4, 2026

New Mexico Department of Agriculture
Rulemaking Public Hearing

Moderated by Les Owen, Deputy Director NMDA

Tuesday, August 4, 2026

9:05 a.m.

Gerald Thomas Hall Auditorium

940 College Drive, Room 194

Las Cruces, NM 88003

Reported by: Ryan Auten

JOB NO: 8263995

A P P E A R A N C E S

List of Attendees:

Les Owen, Deputy Director NMDA

Stephen Baca, Assistant Director - Agricultural Environmental Services

Ryan Hiles, Assistant Director - Agricultural Environmental Services

Tony Marquez, Director of Information Technology - New Mexico Department of Agriculture

Teri Cates, Owner TLC Pest Control, VP - New Mexico Pest Management Association

C. Benevidez, Attendee (by videoconference)

Courtenay, Attendee (by videoconference)

Kyleigh Serna, Attendee (by videoconference)

Micah Meyer, Attendee (by videoconference)

N. Busse, Attendee (by videoconference)

T. Thompson, Attendee (by videoconference)

Tyler Leslie, Rehm's Nursery (by videoconference)

Veronica, Attendee (by videoconference)

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 following rules: Japanese Beetle Exterior Quarantine, 21.27.27 [sic] of the New Mexico Administrative Code; Control of Wood Destroying Pests, 21.17.51 of the New Mexico Administrative Code; Continuing Education Units for Pesticide Applicators, 21.17.53 of the New Mexico Administrative Code; Restricted-Use Pesticides, 21.17.56 of the New Mexico Administrative Code; and M-44 Capsules in the Livestock Protection Collar, 21.17.57 of the New Mexico Administrative Code. Additionally, this hearing will address the proposed amendments to the Pesticides Rule 21.17.50 of the New Mexico Administrative Code.

My name is Les Owen. I am the deputy director for 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 rules and procedural steps were made available as you walked in.

The day and date is Tuesday, August 4, 2026, and the time is approximately 9:05 a.m. This

hearing is being held in person and virtually via internet link in New Mexico State University's Gerald Thomas Hall Auditorium, located at 940 College Drive, Las Cruces, New Mexico. This is the published date, time, and location for this hearing.

In accordance to state law, public notices for this hearing were published as follows: The New Mexico Register published June 23, 2026; Las Cruces Sun News, June 23, 2026; the Santa Fe, New Mexican, June 23, 2026, in English and Spanish; and the Albuquerque Journal, June 23, 2026. Notices were also published -- were also posted on New Mexico Department of Agriculture's website, New Mexico Sunshine Portal, and made available at New Mexico Department of Agriculture's main office in Las Cruces.

Additionally, notifications were sent to the New Mexico Economic Development Small Business Regulatory Advisory Commission for comment and to Legislative Counsel Service. Copies of the proposed replacement rules and amended rule were made available on New Mexico Department of Agriculture's website.

This hearing is being recorded and either a transcript of today's hearing or the recording will be available from New Mexico Department of Agriculture's website. Following a summary of

major points within each proposed six rules, the public will be provided with an opportunity to permit -- to present testimony. Testimony should be relevant to the proposed rules or amendments.

The first of six rules addressed in this hearing is the proposed repeal and replacement of the Japanese Beetle Exterior Quarantine Rule. Mr. Hiles will now provide a summary of proposed primary points included in the rule.

MR. HILES: Good morning. I am Ryan Hiles, an assistant division director with the New Mexico Department of Agriculture. The Japanese Beetle Exterior Quarantine Rule, 21.17.27 of the New Mexico Administrative Code, was promulgated under the authority of the Pest Control Act 76.6.1 of New Mexico Statutes to address risks associated with importing Japanese beetle into New Mexico through the importation of plant/nursery stock.

Extensive proposed amendments to the Japanese beetle exterior quarantine rule necessitated the repeal and replacement of the existing rule. Major points addressed include additional definitions for clarification purposes, requirement for nurseries exporting plants to New Mexico to comply with restrictions outlined in New Mexico Department of

Agriculture-issued compliance agreement, expansion of quarantined areas to include all U.S. states and specific Canadian provinces, requirements for smaller pots containing non-gramineous nursery stock to be treated prior to export to New Mexico, and provide states a pathway to include multiple nurseries to be covered under one compliance agreement.

MR. OWEN: Thank you, Mr. Hiles.

As of August 1, 2026, the New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Japanese Beetle Exterior Quarantine.

For those of you in the room, please raise your hand and wait until I call on you. For those participating through Zoom, please use the "Raise Hand" feature, and you will be -- you will then be unmuted. Begin your comment by stating your name and affiliation for the record. Your comment should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

Is there anyone else wishing to comment?

Seeing none, I will close the public

oral comment period for the proposed Japanese Beetle Exterior Quarantine Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website.

The second rule addressed during this hearing is the proposed repeal and replacement of the Control of Wood Destroying Pests rule. Mr. Baca will present a summary of major points contained in this proposed replacement rule.

MR. BACA: Good morning. I am Steve Baca, an assistant division director with New Mexico Department of Agriculture. The Control of Wood Destroying Pests Rule, 21.17.51 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.4.1-39 of

New Mexico Statutes to address regulatory requirements related to pesticide applicators involved in the control of wood-destroying pests.

Although amendments to the existing Control of Wood Destroying Pests Rule are few, format updates necessitated the repeal and replacement of the existing rule. Major points addressed in the proposed rule include updating, noting that not all termiticides are restricted-use products, alignment of terms with those used in the Pesticide Control Act, and clarification of license types that require supervision while applying pesticide -- insecticides.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Control of Wood Destroying Pests Rule.

For those of you in the room, please raise your hand and wait until I call on you. For those participating through Zoom, please use the raise your hand feature, and you will be unmuted. Begin your comment by stating your name and affiliation for the record. Your comment should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

Is there anyone else wishing to comment?

Seeing none, I will close the -- the public oral comment period for the proposed Wood Destroying Pests Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website.

The third rule addressed in this hearing is the proposed repeal and replacement of the Continuing Education Units for Pesticide Applicators Rule. Mr. Baca will present a summary of major points contained in this proposed replacement rule.

MR. BACA: I'm Steve Baca, an assistant

division director with the New Mexico Department of Agriculture. The Continuing Education Units for Pesticide Applicators Rule, 21.17.53 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.1.4 1-39 [sic] of the New Mexico Statutes to address Environmental Protection Agency-required updates relevant to continuing education requirements for pesticide applicators.

Extensive proposed changes and format updates necessitated a repeal and replacement process for this rule. Major points proposed in the replacement rule include definition updates, clarification of continuing education units approval process, addition of Environmental Protection Agency mandated re-certification requirements, and addition of new environmental protection agency pesticide applicator categories.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed continuing education units for pesticide applicators rule.

For those of you in the room, please

raise your hand and wait until I call on you. For those participating through Zoom, please use the raise your hand feature, and you will be unmuted. Begin your comment by stating your name and affiliation for the record. Your comments should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments. Yes.

MS. CATES: [Unintelligible response.]

MR. OWEN: Great. Thank you.

Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Continuing Education Units for Pesticide Applicators Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be

available from New Mexico Department of Agriculture's website.

Oh.

UNIDENTIFIED SPEAKER: Now if you use this microphone, he should be able to hear you.

MS. CATES: My name is Teri Cates. I am the owner-operator of TLC Pest Control, as well as the current vice president of New Mexico Pest Management Association and the State Policy Affairs Representative for the industry -- the pest control industry in the state of New Mexico. I'm here today to support the rule change, as it is much needed and long overdue.

MR. OWEN: Great. Thank you.

The fourth rule addressed in this hearing is the proposed repeal and replacement of the Restricted-Use Pesticides Rule. Mr. Baca will present a summary of major points contained in the proposed rule replacement.

MR. BACA: I'm Steve Baca, an assistant division director with New Mexico Department of Agriculture. The Restricted-Use Pesticides Rule, 21.17.56 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.4.1-39 of New Mexico Statutes to

address regulations relevant to the purchase, sale, use, and record retention of restricted-use pesticides.

Although proposed amendments to the existing Restricted-Use Pesticide Rule are few, format updates necessitated the repeal and replacement of the current rule. The major point addressed in the proposed rule is a revision of pesticide records requirements to ensure compliance with Environmental Protection Agency mandates.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed Restricted-Use Pesticides Rule.

For those of you in the room, please raise your hand and wait till I call on you. For those participating through Zoom, please use the "Raise Hand" feature, and you will be unmuted. Begin your comments by stating your name and affiliation for the record. Your comments should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

Okay. Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Restricted-Use Pesticides Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website.

The fifth rule addressed in this hearing is the proposed repeal and replacement of the M-44 and the Livestock Protection Collar Rule. Mr. Baca will present a summary of major points contained in the proposed replacement rule.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture. The M-44 and the Livestock Protection -- Protection Collar Rule, 21.17.57 of the

New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.4.1-39 of New Mexico Statutes to address regulations relevant to the purchase, sale, use, accident reporting, and record retention of M-44s and livestock protection collars.

Although proposed amendments to the existing M-44 and the Livestock Protection Collar Rule are few, format updates necessitated the repeal and replacement of the existing rule. Major points addressed in the proposed replacement rule include clarification of prospective license -- licensee qualifications, updating of records requirements, and harmonization of rule language with product labels.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed M-44 and Livestock Protection Collar Rule.

For those of you in the room, please raise your hand and wait until I call on you. For those participating through Zoom, please use the "Raise Hand" feature, and you will be unmuted. Begin your comment by stating your name and affiliation for

the record. Your comments should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed M-44 and -- and the Livestock Protection Collar Rule. Written comments will be accept until -- accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website.

The last rule addressed in this hearing are proposed amendments to the Pesticides Rule. Mr. Baca will present a summary of major points contained in the proposed rule amendments.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture. The Pesticides Rule, 21.17.50 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.4.1-39 of New Mexico Statutes to address regulations relevant to the sale of pesticides, purchase, use, licensing, and record requirements by commercial pesticide applicators and individuals using restricted-use pesticides, and identifying pesticide applicator licensing categories.

The majority of proposed amendments to the Pesticides Rule are Environmental Protection Agency-mandated updates. These updates include changes in examination requirements, record requirement enhancements, new pesticide applicator categories, and minimum age establishment for applicators.

Additionally, proposed amendments include general language cleanup, increase in minimal insurance requirements, definition updates, and clarification to operators' training permits.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received no written

comments. We'll now open the floor for comments directed at the proposed Pesticides Rule.

For those of you in the room, please raise your hand and I will -- and wait until I call on you. For those participating through Zoom, please use the "Raise Hand" feature, and you will be unmuted. Begin your comment by stating your name and affiliation for the record. Your comments should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

MS. CATES: My name is Teri Cates. I'm the owner-operator at TLC Pest Control, and I'm also the vice president of New Mexico Pest Management Association and the State Policy Affairs Representative for the industry. I am here on behalf of myself and my association to support all the rule changes, as they are much needed and long overdue.

MR. OWEN: Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Pesticides Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at

the main Las Cruces office.

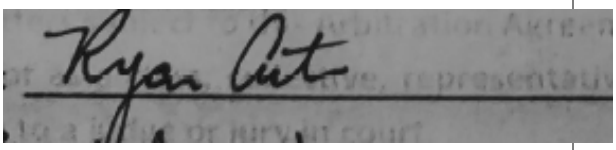
All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be available from the New Mexico Department of Agriculture's website.

The time is 9:21 a.m. I will now close this public hearing that addressed amendments to or the repeal and replacement of six New Mexico Department of Agriculture pesticide or plant pest-related rules. Thank you.

(Whereupon, at 9:21 a.m., the proceeding was concluded.)

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.



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

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Hearing Transcript - August 6, 2026

New Mexico Department of Agriculture

Pesticides Rulemaking Hearing

Moderated by Les Owen, Deputy Director

Thursday, August 6, 2026

9:00 a.m.

Central New Mexico Community College Workforce Training Center

5600 Eagle Rock Avenue Northeast

Albuquerque, NM 87113

Reported by: James Cogswell

JOB NO: 8264010

A P P E A R A N C E S

List of Attendees:

Les Owen, Deputy Director, New Mexico Department of Agriculture

Ryan Hiles, Assistant Division Director, New Mexico Department of Agriculture

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

Tim Darden, New Mexico Department of Agriculture

Nathan Abrahamson, New Mexico Department of Agriculture

Maria Rocha-Hall, New Mexico Department of Agriculture

Candie Sweetser, New Mexico Department of Agriculture

Alan Feuer, Attendee

Kyleigh Serna, Attendee

Dixie Mussaw, Attendee

Chris Benavidez, Attendee

John Crowley, Attendee

Bradley Lewis, New Mexico Department of Agriculture

P R O C E E D I N G S

MR. OWEN: We're ready? Okay. Good morning. At this time, we will start the hearing that addresses the proposed repeal and replacement of the following rules: Japanese Beetle Exterior Quarantine, 21.27.27 of the New Mexico Administrative Code. Control of Wood Destroying Pest, 21.17.51 of the New Mexico Administrative Code.

Continuing Education Units for Pesticide Applicators, 21.17.53 of the New Mexico Administrative Code. Restricted-Use Pesticides, 21.17.56 of the New Mexico Administrative Code. And M-44 Capsules and the Livestock Protection Collar, 21.17.57 of the New Mexico Administrative Code.

Additionally, this hearing will address the proposed amendments to the Pesticides Rule 21.17.50 of the New Mexico Administrative Code. My name is Les Owen. I am the deputy director for 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 rules and procedural steps were made available as you walked in. The day and date is Thursday, August 6th, and the

time is approximately 9:05 a.m.

This hearing is being held in person at the CNM Workforce Training Center located at 5600 Eagle Rock Avenue, Albuquerque, New Mexico. This is the published date, time, and location for this hearing.

In accordance to state law, public notices for this hearing were published as follows: The New Mexico Register, published June 23, 2026, Las Cruces Sun-News, June 23, 2026, The Santa Fe New Mexican, June 23, 2026, in English and Spanish, and the Albuquerque Journal, June 23, 2026.

Notices were also posted at the New Mexico Department of Agriculture's website and the New Mexico Sunshine Portal and made available at New Mexico Department of Agriculture's main office in Las Cruces.

Additionally, notifications were sent to the New Mexico Economic Development's Small Business Regulatory Advisory Commission for comment and to Legislative Counsel Service. Copies of the proposed replacement rules and amended rule were made available on New Mexico Department of Agriculture's website.

Written comments will be accepted until

5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office. Following a summary of major points within each proposed six rules, the public will be provided with an opportunity to present testimony.

Testimony should be relevant to the proposed rules or amendments. The first of six rules addressed in this hearing is the proposed repeal and replacement of the Japanese Beetle Exterior Quarantine Rule. Mr. Hiles will now provide a summary of proposed primary points included in the rule.

MR. HILES: Good morning. I am Ryan Hiles, an assistant division director with the New Mexico Department of Agriculture.

The Japanese Beetle Exterior Quarantine Rule 21.17.27 of the New Mexico Administrative Code was promulgated under the authority of the Pest Control Act 76.6.1 of New Mexico statutes to address risks associated with importing Japanese beetle into New Mexico through the importation of plant nursery stock.

Extensive proposed amendments to the Japanese Beetle Exterior Quarantine Rule necessitated the repeal and replacement of the existing rule.

Major points addressed include: additional definitions for clarification purposes.

Requirements for nurseries exporting plants to New Mexico to comply with the restrictions outlined in New Mexico Department of Agriculture issued compliance agreement. Expansion of quarantined areas to include all U.S. States and specific Canadian provinces.

Requirements for smaller pots containing non-gramineous nursery stock to be treated prior to export to New Mexico. And provide states a pathway to include multiple nurseries to be covered under one compliance agreement.

MR. OWEN: Thank you, Mr. Hiles.

As of August 6, 2026, New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Japanese Beetle Exterior Quarantine. Please raise your hand and wait until I call on you. Begin your comment by stating your name and affiliation for the record.

Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments. We have a microphone up here for anybody that would like to comment.

Yes, sir. If you'll please just come up to this microphone so that we can capture it.

MR. CROWLEY: Thank you for listening. Am I on? Okay. Thank you for listening. I'm John Crowley, and I'm a sales rep for Monrovia Growers. You -- I know this is a little heavy-handed as any agriculture department or any government entity is. You can't, like, say, "Oh, you get a by."

But as I've expressed in emails to the NMDA, it's hard to prove that ghosts don't exist. Monrovia Growers and many other growers have areas that are clean. And the way the rules or regulations are proposed, it's almost like go out there and trap.

And we don't want -- we really don't want to trap because it -- the traps you have us using in Oregon -- they do have us using those in Oregon already. That's a requirement. And we're compliant with that. That's easily done. That Oregon nursery is in an agricultural area. It isn't in a residential area. So that's easily done.

The -- none of us here, nobody in this room wants to bring Japanese beetles in. But the gramineous plants that you're requiring, those are basically woody landscape ornamentals. I can think of, like, pampus grass, maiden grass. And I can't

understand.

Maybe that's the USDA recommendation instead of -- and NMDA is just using that or -- or piggybacking with that. I don't know. But gramineous plants, I don't understand how that can be. I understand turf and then we're getting into gramineous, bluegrass, Kentucky Bluegrass. I get that.

But when it comes to woody ornamentals, which are a lot of ornamental grasses, you're really cutting down on a plant that people use here as a standalone, looks great in the gravel, not a heavy water user, drought tolerant, looks great. So I think that we -- I'd like to see us revisit that.

Also, the size container, you had mentioned be treated in there, some plants being treated. I don't know what that all entails, whether you're going to require us to start treating them with, like, Talstar or something prior to shipping. That's a little scary because you don't want to hit it with a chemical.

Then put it on the back of the truck, seal the door, and let it ride for six days with no sunshine. Then open it up and see what you got. You can understand that. So please work with us on that

and let us know. We're spending a lot of money up in Oregon to treat for them. We don't have any Japanese beetles up there.

We're -- I see the traps when I'm up there. So I think that if it's a clean nursery, a little less heavy-handed on the container size. You know, let's -- let's look at those. And I -- I think that might be a piggyback again with the USDA. Am I correct; Ryan?

MR. HILES: So for clean nurseries, that's going to -- the options in the proposed rule allow for clean nurseries to be excluded from the treatment requirements if need be.

MR. CROWLEY: Ah. Okay.

MR. HILES: So that's going to be --

MR. CROWLEY: I see. That -- yeah.

MR. HILES: Yes.

MR. CROWLEY: That was -- that was unclear. Thank you for the clarification there.

MR. HILES: No problem.

MR. CROWLEY: But it does seem a -- it's cutting back on a lot of the income of these garden centers that are running clean operations, just like Monrovia, you know, Osuna, Plant World. These places that are, you know, not Bob's cheap shop and

not -- the mass merchants are the ones that scare me the most.

So I'd really like some kind of -- you know, I saw it in California there aren't any bugs, but that's the only place I can ship my ornamental grasses from now. You've nixed me out of Oregon, you nixed me out of Georgia. But the only place I can ship them is California.

Now with this, you're going to nix me out of -- out of California next September 27th, I think -- or September of '27. It gets to the point, it's like, good golly. If you knew how much you cut my income by knocking me out of 15 and 10 gallon crape myrtles out of Georgia, you would be -- it -- it wouldn't -- anyway, it wasn't fun. It's not pleasant.

So I really -- we don't want Japanese beetle, but we feel it's a little heavy-handed from the New Mexico Department of Agriculture. Thank you.

MR. OWEN: Thank you.

Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Japanese Beetle Exterior Quarantine Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be

submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The second rule to be addressed during this hearing is the proposed repeal and replacement of the Control of Wood Destroying Pests Rule.

Mr. Baca will present a summary of major points contained in this proposed replacement rule.

MR. BACA: Good morning. I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture.

The Control of Wood Destroying Pests, Rule 21.17.51 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act, 76.4.1-39 of New Mexico statutes to

address regulatory requirements related to pesticide applicators involved in the control of wood-destroying pests.

Although proposed amendments to the existing Control of Wood Destroying Pest Rules are few, format updates necessitated the repeal and replacement of the existing rule. Major points addressed in the proposed rule include: update noting that not all termiticides are restricted use products.

Alignment of terms with those used in the Pesticide Control Act. And clarification of license types that require supervision while applying insecticides.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Control of Wood Destroying Pests Rule. Please raise your hand and wait until I call on you. Begin your comment by stating your name and affiliation for the record.

Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments. Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Wood Destroying Pests Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The third rule addressed in this hearing is the proposed repeal and replacement of the Continuing Education Units for Pesticide Applicators Rule.

Mr. Baca will present a summary of major points contained in the proposed replacement rule.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture.

The Continuing Education Units for

Pesticide Applicators Rule 21.17.53 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act, 76.4.1-39 of New Mexico statutes to address Environmental Protection Agency required updates relevant to Continuing Education Requirements for Pesticide Applicators.

Extensive proposed changes and format updates necessitated a repeal and replacement process for this rule. Major points proposed in the replacement rule include: definition updates, clarification of continuing education units approval process, addition of Environmental Protection Agency mandated recertification requirements.

And addition of new environmental protection agency pesticide applicator categories.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received no written comments. We'll now open the floor for comments directed at the proposed Continuing Education Units for Pesticide Applicators Rule. Please raise your hand and wait until I call on you.

Begin your comments by stating your name and affiliation for the record. Your comments

should be limited to the contents of the proposed rule. At this time, I will begin accepting comments.

Yes, sir.

MR. FEUER: Good morning. My name is Alan Feuer. I am a certified applicator in the State of New Mexico, license number 61155.

Did you get all that?

THE REPORTER: Yeah.

MR. FEUER: It's good enough?

I've held licensure in the state of New Mexico since 1989. I'm licensed in the Categories 7A, B, C, D, 3A, and 3B, six categories. I come up here today to speak in complete and total favor of the upgrade to the testing and certifications and recertification rules. This is far overdue.

It has been unfair for decades that only one category in our entire licensure circumstances required any sort of continuing education for operator servicemen. And this rectifies quite a bit of that. So thank you for the changes that have been made.

MR. OWEN: Thank you.

Is there anyone else wishing to comment?

Seeing none, I will close the public

oral comment period for the proposed Continuing Education Units for Pesticide Applicators Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The fourth rule addressed in this hearing is the proposed repeal and replacement of the Restricted-Use Pesticides Rule.

Mr. Baca will present a summary of major points contained in the proposed replacement rule.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture.

The Restricted-Use Pesticides Rule 21.17.56 of the New Mexico Administrative Code was

promulgated under the authority of the Pesticide Control Act 76.4.1-39 of New Mexico statutes to address regulations relevant to the purchase, sale, use, and record retention of Restricted Use Pesticides.

Although proposed amendments to the existing Restricted-Use Pesticides Rule are few, format updates necessitated the repeal and replacement of the current rule. The major point addressed in the proposed rule is a revision of pesticide records requirements to ensure compliance with Environmental Protection Agency mandates.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed Restricted-Use Pesticides Rule. Please raise your hand and wait until I call on you.

Begin your comment by stating your name and affiliation for the record. Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments. Is there anyone wishing to comment?

Seeing none, I will close the public

oral comment period for the proposed Restricted-Use Pesticide Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The fifth rule addressed in this hearing is the proposed repeal and replacement of the M-44 and Livestock Protection Collar Rule.

Mr. Baca will present a summary of major points contained in the proposed replacement rule.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture.

The M-44 and the Livestock Protection Collar Rule 21.17.57 of the New Mexico Administrative Code was promulgated under the authority of the

Pesticide Control Act 76.4.1-39 of New Mexico statutes to address regulations relevant to the purchase, sale, use, accident reporting, and record retention of M-44s and Livestock Protection Collars.

Although proposed amendments to the existing M-44 and the Livestock Protection Collar Rule are few, the format updates necessitated the repeal and replacement of the existing rule.

Major points proposed in the replacement rule include: clarification of prospective licensee qualifications, updating of records requirements, and harmonization of rule language with product labels.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed M-44 and Livestock Protection Collar Rule. Please raise your hand and wait until I call on you. Begin your comment by stating your name and affiliation for the record.

Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments. Is there anyone wishing to comment?

Seeing none, I will close the public oral comment period for the proposed M-44 and Livestock Protection Collar Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The last rule addressed in this hearing are proposed amendments to the Pesticides Rule. Mr. Baca will present a summary of major points contained in the proposed rule amendments.

MR. BACA: I am Steve Baca, an assistant division director with New Mexico Department of Agriculture.

The Pesticides Rule 21.17.50 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act, 76.4.1-39 of

New Mexico statutes to address regulations relevant to the sale of pesticides, purchase, use, licensing, and record requirements by commercial pesticide applicators and individuals using restricted use pesticides.

And identifying pesticide applicator licensing categories. The majority of proposed amendments to the Pesticide Rule are Environmental Protection Agency mandated updates.

These updates include: changes in examination requirements, record requirement enhancements, new pesticide applicator categories, and minimum age establishment for applicators.

Additionally, proposed amendments include: general language cleanup, increase in minimal insurance requirements, definition updates, and clarification to operator's training permits.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Pesticide Rule. Please raise your hand and wait until I call on you. Begin your comment by stating your name and affiliation for the record.

Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments.

Yes, sir.

MR. FEUER: Thank you. My name is Alan Feuer. I'm a commercial applicator, license number 61155, in six categories in the state of New Mexico. I rise to explain -- or to state my support for these changes.

MR. OWEN: Thank you.

Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed amendments to the Pesticides Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording

will be available from New Mexico Department of Agriculture's website.

The time is 9:23 a.m. I will now close this public hearing that addressed amendments to or the repeal and replacement of six New Mexico Department of Agriculture pesticide or plant pest related rules. Thank you.

(Whereupon, the meeting concluded at 9:23 a.m.)

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.



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

CERTIFICATE OF TRANSCRIBER

I, MARY SACKETT, 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.



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New Mexico Rules of Civil Procedure for the

District Courts

Article 5, Rule 1-030

(e) Review by Witness; Changes; Signing. If requested by the deponent or a party before completion of the deposition, the deponent shall have thirty (30) days after being notified by the officer that the transcript or recording is available in which to review the transcript or recording and, if there are changes in form or substance, to sign a statement reciting such changes and the reasons given by the deponent for making them. The officer shall indicate in the certificate prescribed by Subparagraph (1) of Paragraph F of this rule whether any review was requested and, if so, shall append any changes made by the deponent during the period allowed.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE STATE RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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Exhibits

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the New Mexico Department of Agriculture (NMDA) proposes to repeal and replace the following: 21.17.27 NMAC, JAPANESE BEETLE EXTERIOR QUARANTINE; 21.17.51 NMAC, CONTROL OF WOOD DESTROYING PESTS; 21.17.53 NMAC, CONTINUING EDUCATION UNITS FOR PESTICIDE APPLICATORS; 21.17.56, NMAC RESTRICTED-USE PESTICIDES; and 21.17.57 NMAC, M-44 AND THE LIVESTOCK PROTECTION COLLAR. NMDA proposes amending 21.17.50 NMAC, PESTICIDES.

PURPOSE AND SUMMARY OF PRIMARY PROPOSED RULE CHANGES:

21.17.27 NMAC, JAPANESE BEETLE EXTERIOR QUARANTINE
Extensive amendments necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: additional terms added to the definition section to clarify regulatory requirements; scope of Japanese beetle (JB) quarantined areas expanded from 36 states to all U.S. states and specific Canadian provinces; scope of regulated articles expanded to include additional nursery stock items; compliance agreements (issued by NMDA) required for shipment of regulated articles into New Mexico; departments of agriculture in originating states provided options to petition NMDA for areawide or single-nursery compliance agreements; treatment requirements clarified for shipment of regulated articles into New Mexico; exceptions from compliance agreement requirements provided for small (under 10-inch container diameter) non-gramineous nursery stock; and requirement for small (under 10-inch container diameter) non-gramineous nursery stock to be treated and accompanied by a phytosanitary certificate for shipment into New Mexico.

21.17.51 NMAC, CONTROL OF WOOD DESTROYING PESTS
Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: removal of restricted use statement to reflect that not all termiticides are restricted use products; alignment of terms with those in the Pesticide Control Act, 76.4.18 et. seq. NMSA 1978; and clarification of license types that require direct supervision of employees applying pesticides.

21.17.53 NMAC, CONTINUING EDUCATION UNITS FOR PESTICIDE APPLICATORS
Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: updates to definitions; clarification of Continuing Education Unit approval process; addition of Environmental Protection Agency mandated recertification requirements, including the number of Continuing Education Units required for all applicator categories.

21.17.56 NMAC, RESTRICTED-USE PESTICIDES
Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: updates to language and revision of additional pesticide dealer record requirements to comply with Environmental Protection Agency.

21.17.57 NMAC, M-44 AND THE LIVESTOCK PROTECTION COLLAR
Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: clarification of prospective licensee qualifications; and records and usage requirements updated to address product label inconsistencies.

21.17.50 NMAC, PESTICIDES
Amendments are primarily directed at updating pesticide applicator requirements to comply with federal Environmental Protection Agency laws including: pesticide applicator examination requirements; enhanced dealer record requirements; minimum age requirements for pesticide applicator licensees (18 years old); and addition of new pesticide applicator categories. General cleanup of rule language included definition updates and increase in minimum insurance coverage requirements.

STATUTORY AUTHORITY (Rule 21.17.27 NMAC**):** Granted to the Board of Regents of New Mexico State University under the Pest Control Act, Chapter 76, Article 6, Sections 1 through 9 NMSA 1978 Compilations. **(**Rules 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC, and 21.17.50 NMAC**):** 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 Compilations.

Copies of the Notice of Proposed Rulemaking and the proposed rules (including any technical information) are available by electronic download from the New Mexico Department of Agriculture website (https://nmdeptag.nmsu.edu) and are also available at the department's office, located at 1050 Stewart Street, Las Cruces, NM.

Tuesday, August 4, 2026, at 9 a.m., NMDA will host a public hearing that may be attended in person, by video conference, or by telephone. The hearing will take place at the Gerald Thomas Hall Auditorium (Room 194) on the campus of New Mexico State University, located at 940 College Drive, Las Cruces, NM. The hearing will include repeal and replacement, and or amendments to rules 21.17.27 NMAC, 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC and 21.17.50 NMAC.

Join the hearing via **video conference** Tuesday, August 4, 2026, at 9:00 a.m.:
Meeting URL: https://nmsu.zoom.us/j/87014463854
Meeting ID: 870 1446 3854
Or
Join the hearing via **phone** Tuesday, August 4, 2026, at 9:00 a.m.:
Phone: 1 669 900 6833 or 1 719 359 4580
Meeting ID: 870 1446 3854

Thursday, August 6, 2026 at 9 a.m., NMDA will host a public, in-person hearing at the CNM Workforce Training Center, located at 5600 Eagle Rock Ave NE, Albuquerque, NM. The hearing will include repeal and replacement, and or amendments to rules 21.17.27 NMAC, 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC, and 21.17.50 NMAC.

Oral and written comments will be accepted at the hearings from members of the public and interested parties. Written comments will be accepted until August 6, 2026, at 5:00 p.m. Comments may be submitted via email to 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

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/Secretary of Agriculture will consider all oral comments and will review all timely submitted written comments and responses.

AVISO DE PROPUESTA DE REGLAMENTACIÓN

POR LA PRESENTE SE NOTIFICA que el Departamento de Agricultura de Nuevo México (NMDA) propone derogar y reemplazar las siguientes normas: 21.17.27 NMAC, CUARENTENA EXTERIOR CONTRA EL ESCARABAJO JAPONÉS; 21.17.51 NMAC, CONTROL DE PLAGAS QUE DESTRUYEN LA MADERA; 21.17.53 NMAC, UNIDADES DE EDUCACIÓN CONTINUA PARA APLICADORES DE PLAGUICIDAS; 21.17.56 NMAC, PLAGUICIDAS DE USO RESTRINGIDO; y 21.17.57 NMAC, M-44 Y EL COLLAR DE PROTECCIÓN PARA GANADO. El NMDA propone modificar la norma 21.17.50 NMAC, PLAGUICIDAS.

PROPÓSITO Y RESUMEN DE LOS PRINCIPALES CAMBIOS PROPUESTOS A LA REGLAMENTACIÓN:

21.17.27 NMAC, CUARENTENA EXTERIOR CONTRA EL ESCARABAJO JAPONÉS
La necesidad de realizar modificaciones extensas requirió la derogación y el reemplazo de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: incorporación de términos adicionales en la sección de definiciones para aclarar los requisitos reglamentarios; ampliación del alcance de las áreas bajo cuarentena por el escarabajo japonés (JB, por sus siglas en inglés), pasando de 36 estados a todos los estados de EE. UU. y provincias canadienses específicas; ampliación del alcance de los artículos regulados para incluir productos adicionales de vivero; exigencia de acuerdos de cumplimiento (emitidos por el NMDA) para el envío de artículos regulados a Nuevo México; otorgamiento de opciones a los departamentos de agricultura de los estados de origen para solicitar al NMDA acuerdos de cumplimiento a nivel de área o para viveros individuales; aclaración de los requisitos de tratamiento para el envío de artículos regulados a Nuevo México; establecimiento de excepciones a los requisitos de acuerdo de cumplimiento para plantas de vivero pequeñas (en contenedores de menos de 10 pulgadas de diámetro) que no sean gramíneas; y requisito de que las plantas de vivero pequeñas (en contenedores de menos de 10 pulgadas de diámetro) que no sean gramíneas sean tratadas y vayan acompañadas de un certificado fitosanitario para su envío a Nuevo México.

21.17.51 NMAC, CONTROL DE PLAGAS QUE DESTRUYEN LA MADERA
Los requisitos de actualización de formato hicieron necesaria la derogación y el reemplazo de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: eliminación de la declaración de uso restringido para reflejar que no todos los termiticidas son productos de uso restringido; alineación de los términos con los de la Ley de Control de Pesticidas (*Pesticide Control Act*), secciones 76.4.18 y siguientes de la NMSA 1978; y aclaración de los tipos de licencia que requieren supervisión directa de los empleados que aplican pesticidas.

21.17.53 NMAC, UNIDADES DE EDUCACIÓN CONTINUA PARA APLICADORES DE PESTICIDAS
Los requisitos de actualización de formato hicieron necesaria la derogación y sustitución de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: actualizaciones de definiciones; aclaración del proceso de aprobación de las Unidades de Educación Continua; e incorporación de los requisitos de recertificación exigidos por la Agencia de Protección Ambiental (EPA), incluido el número de Unidades de Educación Continúa requerido para todas las categorías de aplicadores.

21.17.56 NMAC, PESTICIDAS DE USO RESTRINGIDO
Los requisitos de actualización de formato hicieron necesaria la derogación y sustitución de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: actualizaciones en la redacción y revisión de los requisitos adicionales de registro para distribuidores de pesticidas, a fin de cumplir con las disposiciones de la Agencia de Protección Ambiental (EPA).

21.17.57 NMAC, M-44 Y EL COLLAR DE PROTECCIÓN PARA GANADO
Los requisitos de actualización de formato hicieron necesaria la derogación y sustitución de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: aclaración de los requisitos para los futuros titulares de licencias; y actualización de los requisitos de registro y uso para abordar las inconsistencias en las etiquetas de los productos.

21.17.50 NMAC, PESTICIDAS
Las modificaciones se centran principalmente en actualizar los requisitos para aplicadores de pesticidas a fin de cumplir con las leyes federales de la Agencia de Protección Ambiental (EPA), incluyendo: requisitos de examen para

aplicadores de pesticidas; requisitos reforzados de registro para distribuidores; requisitos de edad mínima para los titulares de licencias de aplicador de pesticidas (18 años); e incorporación de nuevas categorías de aplicadores de pesticidas. Se realizó una revisión general de la redacción de la norma que incluyó actualizaciones de definiciones y un aumento en los requisitos mínimos de cobertura de seguro.

AUTORIDAD LEGAL (Norma 21.17.27 NMAC): Otorgada a la Junta de Regentes de la Universidad Estatal de Nuevo México (*New Mexico State University*) en virtud de la Ley de Control de Plagas (*Pest Control Act*), Capítulo 76, Artículo 6, Secciones 1 a 9 de la Compilación NMSA 1978. AUTORIDAD LEGAL (Reglas 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC y 21.17.50 NMAC): Otorgada a la Junta de Regentes de la Universidad Estatal de Nuevo México (New Mexico State University) en virtud de la Ley de Control de Pesticidas de Nuevo México (New Mexico Pesticide Control Act), Capítulo 76, Artículo 4, Secciones 1 a 39, Compilaciones NMSA 1978.

Se pueden obtener copias del Aviso de Propuesta de Reglamentación y de las reglas propuestas (incluida cualquier información técnica) mediante descarga electrónica desde el sitio web del Departamento de Agricultura de Nuevo México (https://nmdeptag.nmsu.edu); también están disponibles en la oficina del departamento, ubicada en 1050 Stewart Street, Las Cruces, NM.

El martes 4 de agosto de 2026, a las 9:00 a. m., el NMDA celebrará una audiencia pública a la que se podrá asistir en persona, por videoconferencia o por teléfono. La audiencia tendrá lugar en el auditorio Gerald Thomas Hall (Sala 194) del campus de la New Mexico State University, ubicado en 940 College Drive, Las Cruces, NM. La audiencia abordará la derogación y sustitución, y/o las modificaciones de las normas 21.17.27 NMAC, 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC y 21.17.50 NMAC.

Participe en la audiencia por **videoconferencia** el martes 4 de agosto de 2026, a las 9:00 a. m.:
URL de la reunión: https://nmsu.zoom.us/j/87014463854
ID de la reunión: 870 1446 3854
O
Participe en la audiencia por **teléfono** el martes 4 de agosto de 2026, a las 9:00 a. m.:
Teléfono: 1 669 900 6833 o 1 719 359 4580
ID de la reunión: 870 1446 3854

El jueves 6 de agosto de 2026, a las 9:00 a. m., el NMDA celebrará una audiencia pública presencial en el CNM Workforce Training Center, ubicado en 5600 Eagle Rock Ave NE, Albuquerque, NM. La audiencia abordará la derogación y sustitución, y/o las modificaciones de las normas 21.17.27 NMAC, 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC y 21.17.50 NMAC.

En las audiencias se aceptarán comentarios orales y escritos por parte del público y de las partes interesadas. Se aceptarán comentarios por escrito hasta el 6 de agosto de 2026 a las 5:00 p.m. Los comentarios pueden enviarse por correo electrónico a comments@nmda.nmsu.edu o presentarse enviando copias originales a:

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

NECESIDADES ESPECIALES: Si usted es una persona con discapacidad que necesita un lector, un amplificador, un intérprete de lengua de señas cualificado o cualquier otra forma 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 tan pronto como sea posible.

El Director/Secretario de Agricultura tomará en cuenta todos los comentarios orales y revisará todos los comentarios y respuestas por escrito presentados dentro del plazo establecido.

ARTICLE 4
Pesticide Control

76-4-1. Title.

This act [76-4-1 to 76-4-39 (except 76-4-20.1) NMSA 1978] may be cited as the "Pesticide Control Act."

History: 1953 Comp., § 45-25-1, enacted by Laws 1973, ch. 366, § 1.

ANNOTATIONS

Compiler's notes. — Laws 1973, ch. 366, which originally enacted the Pesticide Control Act, is presently compiled as 76-4-1 to 76-4-20, 76-4-21 to 76-4-28, 76-4-30 to 76-4-39 NMSA 1978. Laws 1992, ch. 25, § 1 enacted 76-4-9.1 NMSA 1978 as part of the Pesticide Control Act.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 55.

Exterminator's tort liability for personal injury or death directly resulting from operations, 29 A.L.R.4th 987.

Anticompetitive covenants: aerial spray dust business, 60 A.L.R.4th 965.

Federal pre-emption of state common-law products liability claims pertaining to pesticides, 101 A.L.R. Fed. 887.

76-4-2. Enforcing agency.

The Pesticide Control Act shall be administered and enforced by the state department of agriculture, under the direction of the board of regents, New Mexico state university.

History: 1953 Comp., § 45-25-2, enacted by Laws 1973, ch. 366, § 2.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 20, 21.

3 C.J.S. Agriculture §§ 8 to 24.

76-4-3. Definitions.

As used in the Pesticide Control Act:

A. "equipment" means any type of ground, water or aerial equipment, device or contrivance using motorized, mechanical or pressurized power to apply any pesticide on land and anything that may be growing,

habitating or stored on or in such land, but does not include any pressurized hand-sized household device used by a homeowner to apply a pesticide or any equipment, device or contrivance of which the person who is applying the pesticide on the person's own land is the source of power or energy in making the pesticide application;

B. "board" means the board of regents of New Mexico state university;

C. "department" means the New Mexico department of agriculture;

D. "device" means any instrument or contrivance other than a firearm that is intended for trapping, destroying, repelling or mitigating any pest or any other form of plant or animal life, other than humans and other than bacteria, viruses or other microorganisms on or in any living thing other than plants, but does not include equipment used for the application of pesticides when sold separately therefrom, or traps used to control predators or rodents or sterilization using dry heat or steam;

E. "distribute" means to offer for sale, hold for sale, sell, barter or supply in this state;

F. "environment" includes water, air and land and all plants and every living thing in water, in air and on land and the existing interrelationships;

G. "insect" means any of the numerous small invertebrate animals belonging principally to the class insecta, including beetles, bugs, bees, flies, and to other allied classes of arthropods, including spiders, mites, ticks, millipedes, centipedes and sowbugs;

H. "ingredient statement" means a statement that contains the name and percentage of each ingredient of any pesticide that is intended for one of the purposes under Paragraphs (1) through (4) of Subsection N of this section, and the total percentage of all ingredients in the pesticide not for one of those purposes. If the pesticide contains arsenic in any form, the ingredient statement shall contain a statement of the percentages of total and water-soluble arsenic, calculated as elemental arsenic;

I. "label" means the written, printed or graphic matter on or attached to the pesticide or device or any of its containers or wrappers;

J. "labeling" means all labels and all other written, printed or graphic matter accompanying the pesticide or device at any time; or to which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the department, the United States environmental protection agency, United States departments of agriculture, the interior and health and human services, state agricultural universities and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides;

K. "land" means all land and water areas, including air space, and all living things and all structures, buildings, contrivances and machinery appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation;

L. "person" has the extended meaning ascribed to it in Subsection E of Section 12-2A-3 NMSA 1978;

M. "pest" means any living organism injurious to other living organisms, except humans, viruses, bacteria or other microorganisms in or on other living organisms other than plants, that the board by rule declares to be a pest;

N. "pesticide" means any substance or mixture of substances intended for:

(1) preventing, destroying, repelling or mitigating any pest;

(2) causing the leaves or foliage to drop from a plant, with or without causing abscission;

(3) artificially accelerating the drying of plant tissue; or

(4) accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior, of ornamental or crop plants or the produce thereof, through physiological action, but not including substances that are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants or soil amendments;

O. "pesticide dealer" means any person who distributes highly toxic pesticides, restricted use pesticides or both, which pesticides are restricted by rule to distribution only by licensed pesticide dealers;

P. "pest management consultant" means any individual who offers or supplies technical advice or makes recommendations to the user of highly toxic pesticides, restricted use pesticides or both, which pesticides are restricted by rule to distribution only by licensed pesticide dealers;

Q. "registrant" means a person who has registered any pesticide pursuant to the provisions of the Pesticide Control Act;

R. "restricted use pesticide" means any pesticide or device designated by the board as requiring specific restrictions to prevent unreasonable adverse effects on the environment, including humans, beneficial insect predators and parasites, pollinating insects, animals, crops, wildlife and lands but excluding the pests the pesticide or device is intended to prevent, destroy, control or mitigate;

S. "unreasonable adverse effects on the environment" means an unreasonable risk to humans or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide;

T. "noncommercial applicator" means a person who uses or demonstrates restricted use pesticides and does not qualify as a private applicator and is not required to have a commercial applicator's license;

U. "private applicator" means a certified applicator who uses or supervises the use of any pesticide that is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by the certified applicator or the certified applicator's employer or on the property of another person if applied without compensation other than trading of personal services between producers of agricultural commodities;

V. "public applicator" means a certified applicator who as an employee of a federal, state, county or municipal agency or municipal corporation uses any pesticide that is classified for restricted use or any general use pesticide, when applied to sites or under conditions identified by rule promulgated by the board; and

W. "commercial applicator" means a certified applicator, whether or not the certified applicator is a private applicator with respect to some uses, who for compensation uses or supervises the use of any pesticide for any purpose on any property other than as provided by Sections 76-4-19 and 76-4-20.1 NMSA 1978.

History: 1953 Comp., § 45-25-3, enacted by Laws 1973, ch. 366, § 3; 1979, ch. 394, § 1; 2009, ch. 101, § 1; 2009, ch. 109, § 1.

ANNOTATIONS

The 2009 amendment, effective June 19, 2009, in Subsection L, changed the reference from Section 12-2-2 NMSA 1978 to Section 12-2A-3 NMSA 1978; in Subsection V, after "restricted use", deleted "only by

certified applicators or persons under their direct supervision" and added the remainder of the sentence; and in Subsection W, added the reference to Section 76-4-19 NMSA 1978.

Laws 2009, ch. 101, § 1 and Laws 2009, ch. 109, § 1 enacted identical amendments to this section. The section was set out as amended by Laws 2009, ch. 109, § 1. *See* 12-1-8 NMSA 1978.

76-4-4. Misbranded.

A pesticide or device is misbranded if:

A. its labeling bears any statement, design or graphic representation relative thereto or to its ingredients which is false or misleading;

B. it is contained in a package or other container or wrapping which does not conform to the standards established by the board;

C. it is an imitation of or is distributed under the name of another pesticide or device;

D. any word, statement or other information, required by the Pesticide Control Act or regulations adopted thereunder to appear on the label or labeling, is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or graphic matter in the labeling), and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

E. the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product was intended and if complied with, together with any requirements imposed by the Pesticide Control Act and regulations adopted by the board, are adequate to prevent injury to plants and animals including man, and protect against any unreasonable adverse effects on the environment;

F. the labeling bears any reference to registration under the provisions of the Pesticide Control Act unless such reference is required by regulations adopted pursuant to the Pesticide Control Act;

G. the label does not bear:

(1) the name and address of the producer, registrant or person for whom produced;

(2) the name, brand or trademark under which the pesticide is distributed;

(3) an ingredient statement on that part of the immediate container and on the outside container or wrapper, if there be one through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of purchase. However, the department may permit the ingredient statement to appear prominently on some other part of the container, if the size or form of the container makes it impracticable to place the ingredient statement on the part which is presented or displayed under customary conditions of purchase;

(4) directions for use and a warning or caution statement which are necessary and which, if complied with, would be adequate for the protection of health and protection against injury to plants and animals including man and protection against any unreasonable adverse effects on the environment;

(5) the net weight or measure of the contents;

(6) the registration number assigned the pesticide and the registration number of the person formulating the pesticide by the United States environmental protection agency; and

(7) a statement of the use classification under which the product is registered, if required by federal or state regulations;

H. the pesticide contains any substance or substances in quantities highly toxic to man, as determined by the board unless the label bears, in addition to any other matter required by the Pesticide Control Act:

(1) the skull and crossbones or any other symbol required for registration by the United States environmental protection agency;

(2) the word "POISON" prominently printed in red on a background of distinctly contrasting color; and

(3) a statement of an antidote or practical treatment in case of poisoning by the pesticide;

I. the pesticide container does not bear a label or if the label does not contain all the information required by the Pesticide Control Act and the regulations adopted pursuant to the act, or both;

J. the label for a spray adjuvant fails to state the type or function of the functioning agents; or

K. the label is not printed in English and Spanish, as prescribed by the United States environmental protection agency and by regulations of the board.

History: 1953 Comp., § 45-25-4, enacted by Laws 1973, ch. 366, § 4.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 55.

76-4-5. Prohibited acts.

A. It is unlawful for any person to distribute within the state, to deliver for transportation or transport in intrastate commerce, or between points within this state through any point outside this state, or use any of the following:

(1) any pesticide which has not been registered in accordance with the Pesticide Control Act or regulations adopted pursuant to that act;

(2) any pesticide if any of the claims made for it or any of the directions for its use or other labeling differs from the representations made in connection with its registration, or if the composition as represented in connection with its registration, differs. However, at the discretion of the department, a change in the labeling of a pesticide except changes in the ingredient statement may be made within a registration period without requiring reregistration of the product if the change will not have unreasonable adverse effects on the environment;

(3) any pesticide, unless it is in the unbroken immediate container of the registrant or manufacturer and there is affixed to the container, and to the outside container or wrapper of the retail package, if there is

one through which the required information on the immediate container cannot be clearly read, a label bearing information required in the Pesticide Control Act and the regulations adopted pursuant to that act;

(4) any pesticide which has not been colored or discolored as required by the Pesticide Control Act;

(5) any pesticide which does not meet the professed standard of quantity or quality, as expressed on the labeling under which it is sold, or in which any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent has been wholly or in part abstracted or if any contaminated is misbranded or is present in an amount determined by the department to be a hazard;

(6) any device which is misbranded; or

(7) any pesticide in containers violating regulations adopted pursuant to the Pesticide Control Act, or pesticides found in damaged containers which constituted a hazard to the environment.

B. It is unlawful:

(1) to distribute a restricted use pesticide to any person who is required by law or regulations promulgated pursuant to the Pesticide Control Act to have a permit to use or purchase restricted use pesticides, unless the person or his agent, to whom sale or delivery is made, has a valid permit to use or purchase the kind and quantity of the restricted use pesticide. However, subject to conditions established by the department, such permit may be obtained from any person designated by the department immediately prior to distribution;

(2) for any person to detach, alter, deface or destroy, wholly or in part, any label or labeling provided for in the Pesticide Control Act or regulations adopted pursuant to that act, or to add any substance to, or take any substance from, a pesticide in a manner that may defeat the purpose of the Pesticide Control Act or the regulations adopted thereunder;

(3) for any person to use or cause to be used any restricted use pesticide contrary to directions on the label or to regulations of the board if those regulation differ from or further restrict the labeling;

(4) for any person to use for his own advantage or to reveal, other than to the department, or to the courts of the state in response to a subpoena, or to physicians, or in emergencies to pharmacists and other qualified persons for use in the preparation of a practical treatment including first aid, in case of poisoning, any information relative to formulas of products acquired by authority of the Pesticide Control Act;

(5) for any person to handle, transport, store, display, distribute or use pesticides in such a manner as to endanger man and his environment or to endanger food, feed or any other products that may be transported, stored, displayed or distributed with such pesticides; or

(6) for any person to dispose of, discard or store any pesticides or pesticide containers in a manner that may cause injury to humans, vegetation, crops, livestock, wildlife, pollinating insects or to pollute any water supply or waterway.

History: 1953 Comp., § 45-25-5, enacted by Laws 1973, ch. 366, § 5.

ANNOTATIONS

Cross references. — For penalties, *see* 76-4-34 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 42, 50, 51.

3 C.J.S. Agriculture § 87.

76-4-6. Registration.

A. Each pesticide or device that is distributed within the state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be registered with the department subject to the provisions of the Pesticide Control Act. However, the registration is not required if a pesticide is shipped from one plant or warehouse operated by the same person and used solely at such plant or warehouse as a constituent part to make a pesticide which is registered under the provisions of the Pesticide Control Act.

B. The applicant for registration shall file a statement with the board which includes:

(1) the name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant's;

(2) the name of the pesticide or device;

(3) other necessary information required for completion of the application for registration form;

(4) a complete copy of the labeling accompanying the pesticide or device and a statement of all claims including the directions and precautions for use; and

(5) the use classification of the pesticide, if required by federal or state regulations.

C. The department when it deems it necessary in the administration of the Pesticide Control Act, may require the submission of the complete formula of any pesticide including all ingredients which will prevent, destroy, repel, control or mitigate pests, or which will act as a plant regulator, defoliant, desiccant or those which act as a functioning agent in a spray adjuvant, and all ingredients which do not perform these functions.

D. The department may require a full description of the tests made and the results thereof upon which the claims are based on any pesticide, device or on any pesticide or device on which restrictions are being considered. In the case of renewal of registration, the applicant shall be required to furnish only information which is different from that furnished when the pesticide was registered or reregistered during the previous license year.

E. The board may prescribe other necessary information by regulation.

F. The applicant desiring to register a pesticide or device shall pay an annual prescribed registration fee for each pesticide or device registered.

G. Any registration approved by the department and in effect on December 31 of the year for which a renewal application has been made and the proper fee paid, shall continue in full force and effect until the department notifies the applicant that the registration has been renewed or denied in accord with the provisions of the Pesticide Control Act. Forms for reregistration shall be mailed to registrants at least thirty days prior to the due date.

H. If it appears to the department that the composition of the pesticide warrants the proposed claims for it and if the pesticide or device and its labeling and other material submitted comply with the requirements of the Pesticide Control Act, the department shall register the pesticide or device.

I. All federal, state and county agencies or municipalities shall register all pesticides or devices distributed by them but shall not be required to pay the registration fee.

History: 1953 comp., § 45-25-6, enacted by Laws 1973, ch. 366, § 6.

ANNOTATIONS

Law reviews. — For article, "An Administrative Procedure Act For New Mexico," see 8 Nat. Resources J. 114 (1968).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 42.

3 C.J.S. Agriculture §§ 95, 97.

76-4-7. Experimental use permits.

A. No person shall conduct field tests using a pesticide not registered with the department or a registered pesticide for a use not previously approved in the registration without first having obtained an experimental use permit from the department.

B. Any person may apply to the department for an experimental use permit for a pesticide. The department may issue an experimental use permit if it determines that the applicant needs the permit in order to accumulate information necessary to register a pesticide. The department may refuse to issue an experimental use permit if it determines that issuance of such permit is not warranted or that the pesticide use to be made under the proposed terms and conditions may cause unreasonable adverse effects on the environment.

C. Use of a pesticide under an experimental use permit shall be under the supervision of the department and shall be subject to the terms and conditions and be for the period of time prescribed by the department in the permit.

D. The department may revoke any experimental use permit at any time, if it finds that the terms or conditions of the permit are being violated, or that its terms and conditions are inadequate to avoid unreasonable adverse effects on the environment.

History: 1953 Comp., § 45-25-7, enacted by Laws 1973, ch. 366, § 7; 1979, ch. 394, § 2.

76-4-8. Refusal to register; cancellation; suspension.

A. If it does not appear to the department that the pesticide or device warrants the proposed claims or if the pesticide or device and its labeling and other required material do not comply with the provisions of the Pesticide Control Act or regulations adopted thereunder, the department shall notify the applicant of the manner in which the pesticide, device, labeling or other required material fails to comply with the provisions of the Pesticide Control Act and permit the applicant to make the necessary corrections. If, upon receipt of such notice, the applicant does not make the required changes, the department may refuse to register the pesticide or device.

B. The department may, when it determines that a pesticide or device or its labeling does not comply with the provisions of the Pesticide Control Act or the regulations adopted thereunder, cancel the registration of a pesticide or device.

C. The department shall, when it determines that a situation exists in which the continued use of a pesticide during the time required for cancellation under the Pesticide Control Act would likely result in unreasonable adverse effects on the environment, suspend on their own motion, the registration or a pesticide or device.

History: 1953 Comp., § 45-25-8, enacted by Laws 1973, ch. 366, § 8.

ANNOTATIONS

Cross references. — For stop sale, use or removal order, *see* 76-4-11 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 42.

3 C.J.S. Agriculture §§ 98, 100.

76-4-9. Department to administer and enforce act; board to adopt regulations; scope of regulations.

The department shall administer and enforce the provisions of the Pesticide Control Act and regulations promulgated by the board.

A. The board may after notice and public hearing adopt regulations for carrying out the purpose and provisions of the Pesticide Control Act, including regulations providing for:

(1) declaring as a pest any form of plant or animal life or virus, other than man and other than bacteria, viruses and other microorganisms on or in living man or other living animals, which is injurious to health or the environment;

(2) designating certain pesticides to be highly toxic to any animal including man;

(3) determining standards for identifying pesticides by color, taste, odor or form;

(4) the collection and examination of devices or samples of pesticides for analysis;

(5) requiring pesticide applicators to notify land owners of property adjoining the property to be treated, or in the immediate vicinity thereof, of a proposed application of a pesticide, if such a notice is necessary to carry out the purpose of the Pesticide Control Act; and for a hearing before the director of the department of any objecting owner of property adjoining the property to be treated before the application of the pesticide;

(6) the safe handling, transportation, storage, display, distribution, use and disposal of pesticides and their containers;

(7) establishing standards with respect to the package, container or wrapping in which a pesticide is distributed;

(8) restricting or prohibiting the use of certain types of containers or packages for specific pesticides. These restrictions may apply to type of construction, strength and size or any combination thereof to alleviate danger of spillage, breakage, misuse or any other hazard to the public;

(9) procedures for making pesticide recommendation;

(10) adopting a list of restricted use pesticides for the state or for designated areas within the state;

(11) regulating the time and conditions of distribution, sale or use of the restricted use pesticides;

(12) requiring all persons issued licenses to offer technical advice, to sell or to use restricted use pesticides to maintain records as prescribed by the department;

(13) certification of private applicators;

(14) label requirements of all pesticides required to be registered under provisions of the Pesticide Control Act;

(15) regulating the labeling of devices;

(16) procedures and techniques to be used in sampling land, including agricultural products that are to be consumed by man or animals for pesticide residues;

(17) classifying pesticides for general use, restricted use or both;

(18) prescribing methods to be used in the application of pesticides where the department finds that such regulations are necessary to carry out the purpose and intent of the Pesticide Control Act. Such regulations may relate to the time, manner, methods, materials and amounts and concentrations in connection with the application of the pesticides and may restrict or prohibit use of pesticides in designated areas during specified periods of time and shall encompass all reasonable factors which the department deems necessary to prevent damage or injury by drift or misapplication to plants, including forage plants, or adjacent or nearby lands; wildlife in the adjoining or nearby areas; fish and other aquatic life in waters in reasonable proximity to the area to be treated; and humans, animals or beneficial insects. In issuing such regulations, the board shall give consideration to pertinent research findings and recommendations of other agencies of the state, the federal government or other reliable sources;

(19) requiring any pesticide use dilution to be colored or discolored if it determines that such requirement is feasible and is necessary for the protection of health and the environment;

(20) establishing good pesticide use and handling practices for commercial pesticide applicators;

(21) establishing requirements for supervision of servicemen of structural pest control applicators; and

(22) regulating false or misleading advertisement in the sales or use of pesticides and devices.

B. The board shall adopt regulations that are consistent with regulations of the New Mexico environmental improvement board, the New Mexico water quality control commission and the laws administered by the regulations of the United States environmental protection agency.

C. The department is authorized to specify the quantities and concentrations of restricted use pesticides that may be applied.

History: 1953 Comp., § 45-25-9, enacted by Laws 1973, ch. 366, § 9; 1979, ch. 394, § 3.

ANNOTATIONS

Law reviews. — For article, "Constitutional Limitations on the Exercise of Judicial Functions by Administrative Agencies," see 7 Nat. Resources J. 599 (1967).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 20, 21.

3 C.J.S. Agriculture § 96.

76-4-9.1. State preemption.

Except as otherwise authorized in the Pesticide Control Act, no city, county or other political subdivision of the state and no home rule municipality shall adopt or continue in effect any ordinance, rule, regulation or statute regarding the registration, labeling, distribution, sale, handling, use, application, transportation or disposal of pesticides.

History: Laws 1992, ch. 25, § 1.

ANNOTATIONS

Effective dates. — Laws 1992, ch. 25 contained no effective date provision, but, pursuant to N.M. Const., art IV, § 23, was effective on May 20, 1992.

76-4-10. Sampling and examination of pesticides or devices; residue analysis.

A. The sampling and examination of pesticides or devices shall be made under the direction of the department for the purpose of determining if they comply with the requirements of the Pesticide Control Act.

B. The sampling of land, including agricultural products that are to be consumed by man or animals, may be made by the department to determine if pesticide residues are present that will cause unreasonable adverse effects on the environment or if the residues exceed the tolerance established by the United States environmental protection agency, New Mexico environmental improvement agency [department of environment] or restrictions established by other federal or state regulatory agencies.

History: 1953 Comp., § 45-25-10, enacted by Laws 1973, ch. 366, § 10.

ANNOTATIONS

Bracketed material. — The bracketed material was inserted by the compiler and is not part of the law.

The environmental improvement agency was abolished by Laws 1977, ch. 253, § 5. Section 4 of that act established the health and environment department, consisting of several divisions, including the environmental improvement division. Section 14 of that act provided that all references in law to the agency shall be construed to be references to the environmental improvement division. Laws 1991, ch. 25, § 4

established the department of environment and provided that all references to the environmental improvement division of the health and environment department shall be construed to mean the department of environment.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 53.

3 C.J.S. Agriculture § 99.

76-4-11. "Stop sale, use or removal" order.

When the department has reasonable cause to believe a pesticide or device is being distributed, used, stored or transported in violation of any of the provisions of the Pesticide Control Act or regulations adopted pursuant thereto, the department may issue and serve a written "stop sale, use or removal" order upon the owner or custodian of the pesticide or device. If the owner or custodian is not available to receive the order, the department may attach the order to the pesticide or device and notify the registrant. The pesticide or device shall not be distributed, used or removed until the provisions of the Pesticide Control Act have been complied with and the pesticide or device has been released in writing under conditions specified by the department or the alleged violation has been otherwise disposed of as provided in the Pesticide Control Act by a court of competent jurisdiction.

History: 1953 Comp., § 45-25-11, enacted by Laws 1973, ch. 366, § 11.

ANNOTATIONS

Cross references. — For judicial action after stop sale, use or removal order, *see* 76-4-12 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 42.

76-4-12. Judicial action after "stop sale, use or removal" order.

A. After service of a "stop sale, use or removal" order is made upon any person, that person or the registrant or the department may file an action in a court of competent jurisdiction, in the county in which a violation of the Pesticide Control Act or regulations adopted thereunder is alleged to have occurred, for an adjudication of the alleged violation. The court in such action may issue temporary or permanent injunctions, mandatory or restraining, and such intermediate orders as it deems necessary or advisable. The court may order condemnation of any pesticide or device that does not meet the requirements of the Pesticide Control Act or regulations adopted thereunder.

B. If the pesticide or device is condemned, it shall, after entry of decree, be disposed of by destruction or sale as the court directs. However, the pesticide or device shall not be sold contrary to the provisions of the Pesticide Control Act or regulations adopted thereunder. Upon payment of the costs of the condemnation proceedings and the execution and delivery of a bond as prescribed by the court to assure the pesticide or device shall not be sold or disposed of contrary to the provisions of the Pesticide Control Act or regulations adopted pursuant thereto, the court may direct that the pesticide or device be delivered to the owner thereof for relabeling, reprocessing or otherwise bringing the product into compliance.

C. When a decree of condemnation is entered against the pesticide or device, court costs, fees, storage and other proper expenses shall be awarded against the person, if any, appearing as claimant of the pesticide or device.

History: 1953 Comp., § 45-25-12, enacted by Laws 1973, ch. 366, § 12.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 42.

3 C.J.S. Agriculture § 100.

76-4-13. Pesticide dealer license.

A. It is unlawful for any person to act in the capacity of a pesticide dealer, or advertise as, or assume to act as a pesticide dealer at any time without first having obtained an annual license from the department. A license shall be required for each location or outlet located within this state from which pesticides are distributed. Any manufacturer, registrant or distributor who has no pesticide dealer outlet licensed within this state and who distributes pesticides directly into this state shall obtain a pesticide dealer license for his principal out-of-state location or outlet.

B. Application for a license shall be accompanied by the prescribed annual license fee and shall be on a form provided by the department. The application shall include:

(1) the full name and title of the person applying for the license;

(2) the address of each outlet to be licensed;

(3) the principal business address of the applicant;

(4) the name of a person domiciled in this state authorized to receive and accept service of summons and legal notices of all kinds for the applicant; and

(5) any other necessary information prescribed by the department.

C. Provisions of this section shall not apply to a licensed pesticide applicator who sells pesticides only as an integral part of his pesticide application service when the pesticides are dispensed only through an apparatus used for such pesticide application, or any federal, state or county agency, or municipality which provides pesticides only for its own programs.

D. Each pesticide dealer shall be responsible for the acts of each individual employed by him in the solicitation and sale of pesticides and all claims and recommendations for the use of pesticides. The dealer license shall be subject to denial, suspension or revocation after a hearing for any violation of the Pesticide Control Act or regulations adopted thereunder, whether committed by the dealer or by an officer, agent or employee of the dealer.

History: 1953 Comp., § 45-25-13, enacted by Laws 1973, ch. 366, § 13.

ANNOTATIONS

Cross references. — For grounds for denial, suspension or revocation of license, *see* 76-4-23 NMSA 1978.

76-4-14. Pest management consultant.

No individual shall perform services as a pest management consultant without first obtaining from the department an annual license. Application for a license shall be on a form provided by the department and shall be accompanied by the prescribed fee. Licensed pesticide applicators and operators and employees of federal, state and county agencies, or municipalities, when acting in their official capacities, shall be exempt from this licensing provision.

History: 1953 Comp., § 45-25-14, enacted by Laws 1973, ch. 366, § 14.

76-4-15. Public pest management consultant.

A "public pest management consultant" means any individual who is employed by a governmental agency or municipality to act as a pest management consultant. No person shall act as a public pest management consultant without first obtaining an annual nonfee license from the department. Application for a license shall be on a form provided by the department. The nonfee license shall be valid only when the consultant is acting in that capacity as an employee of his governmental employer. Federal and state employees whose principal responsibilities are in pesticide research shall be exempt from this licensing provision while acting in their official capacities.

History: 1953 Comp., § 45-25-15, enacted by Laws 1973, ch. 366, § 15.

76-4-16. Examinations for pest management consultant license.

The department shall require each applicant for a pest management consultant license or a public pest management consultant license to demonstrate the applicant's knowledge of pesticide laws and regulations, pesticide hazards and the safe distribution, use, application and disposal of pesticides by satisfactorily passing a written examination for the classification for which he has applied, prior to issuing his license. The prescribed examination fee shall be paid for the initial examination and other examinations needed to qualify the applicant to perform services as a pest management consultant. The public pest management consultant shall not be required to pay the examination fee and an examination shall be administered upon request.

History: 1953 Comp., § 45-25-16, enacted by Laws 1973, ch. 366, § 16.

76-4-17. Commercial pesticide applicator license.

A. It is unlawful for any person to engage in the business of applying pesticides at any time to land not owned or occupied by him without a commercial pesticide applicator license issued by the department. The commercial pesticide applicator shall pay an annual prescribed fee for each license issued. Should any apparatus fail to pass inspection making it necessary for an additional inspection to be made, the department

shall require a prescribed inspection fee. In addition to the required inspection, additional inspections may be made to determine if equipment is properly calibrated and maintained in conformance with the Pesticide Control Act and regulations adopted pursuant thereto.

B. Application for a license shall be on a form provided by the department.

C. The department shall not issue a commercial pesticide applicator license until the applicant has passed an examination to demonstrate his knowledge of how to apply pesticides under the classification or classifications he has applied for, and his knowledge of the nature and effect of pesticides he may apply. The department shall charge the prescribed examination fee for the initial examination and other examinations needed to qualify the applicant to apply pesticides.

D. The department shall renew any applicant's license under the classification for which the applicant is certified; provided that the applicant's license is not under a suspension or revocation order and he has met the provisions of the Pesticide Control Act.

E. The department shall not issue a commercial applicator license if it has been determined that:

(1) the applicant has been convicted within the last five years of a felony involving fraud;

(2) the applicant has had revoked within the last two years a previous license authorized by the Pesticide Control Act;

(3) the applicant has been unable to satisfactorily fulfill the certification requirements; or

(4) [the applicant] has had any pesticide application or a license denied, revoked or suspended in any state in the last five years.

F. All applicants for a commercial applicator license shall meet at least one of the following requirements prior to being issued a license and shall file proof of compliance as specified by the department:

(1) documentation of two years of pesticide application experience in the category or related category for which application is being made; or

(2) documentation of one year of pesticide application experience in the category or related category for which application is being made and not less than twenty college credit hours in biological or agricultural sciences.

History: 1953 Comp., § 45-25-17, enacted by Laws 1973, ch. 366, § 17; 1979, ch. 394 § 4.

ANNOTATIONS

Bracketed material. — The bracketed material was inserted by the compiler and it is not part of the law.

Cross references. — For inspection of apparatus, *see* 76-4-26 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 101.

76-4-18. Operator license.

A. It is unlawful for any individual to act as an employee of a commercial pesticide applicator and apply pesticides without having obtained an operator license from the department.

B. The department shall issue an operator license when the applicant has passed an examination to demonstrate his ability to apply pesticides safely and effectively with the type of apparatus and in the classification for which he has applied. The department shall charge the prescribed examination fee for each examination administered.

C. The provisions of this section shall not apply to any individual who is a licensed commercial pesticide applicator.

History: 1953 Comp., § 45-25-18, enacted by Laws 1973, ch. 366, § 18; 1979, ch. 394, § 5.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 101.

76-4-19. Application of act to governmental entities; public applicator's license required.

A. A public applicator shall be subject to the provisions of the Pesticide Control Act and rules adopted pursuant to that act.

B. Public applicators shall be subject to examinations or other licensing provisions as provided in the Pesticide Control Act or by rule promulgated by the board. The department shall issue a limited license without fee to the public applicator who has qualified for the license. The public applicator license shall be valid only when the applicator is acting as an applicator applying pesticides used by federal, state, county or municipal agencies or municipal corporations. Government research personnel shall be exempt from this licensing requirement only when applying general use pesticides to experimental plots.

History: 1953 Comp., § 45-25-19, enacted by Laws 1973, ch. 366, § 19; 1979, ch. 394, § 6; 2009, ch. 101, § 2; 2009, ch. 109, § 2.

ANNOTATIONS

The 2009 amendment, effective June 19, 2009, in Subsection A, at the beginning of the sentence, deleted "All state agencies, federal agencies and municipal corporations or any other governmental agency", added "A public applicator"; and at the end of the sentence, deleted "thereunder concerning the application of pesticides unless exempt under other sections of the Pesticide Control Act"; and added "pursuant that act"; in Subsection B, after "Public applicators", deleted "for agencies listed in this section"; after "examinations", added "or other licensing provisions"; added "or by rule promulgated by the board; after "applicator applying", deleted "or supervising application of restricted use"; and after "pesticides used by", deleted "such entities"; and added "federal, state, county or municipal agencies or municipal corporations".

Laws 2009, ch. 101, § 2 and Laws 2009, ch. 109, § 2 enacted identical amendments to this section. The section was set out as amended by Laws 2009, ch. 109, § 2. *See* 12-1-8 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 43.

3 C.J.S. Agriculture § 101.

76-4-20. Private applicators.

A. No private applicator shall use a restricted use pesticide without first complying with the certification requirements determined by the department as necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator or other persons.

B. In determining these certification requirements, the board shall take into consideration standards of the United States environmental protection agency. Certification requirements for a private applicator to be certified to use restricted use pesticides may include but shall not be limited to the following:

(1) the applicant shall acknowledge that he understands and will abide by the label precautions by signing a dealer's pesticide register. The register shall include the name and address of the private applicator and other information as prescribed by the department. The dealer shall keep a record of all restricted use pesticides distributed to a private applicator;

(2) the applicant shall obtain a user permit prior to purchase and use of the pesticide. The department may issue restricted use pesticide permits to private applicators who have documented the crops, location and acreage on the permit for the seasonal or temporary period for which their permit is issued. User permits shall only be issued for registered or experimental uses and shall be subject to other limitations as specified by the department. The limitations may include limiting the areas of use, the timing or method of application and limiting the amount of the pesticide to that needed to cover the acreage to be treated;

(3) the applicant shall be required to pass a written examination demonstrating his competency with respect to the use and handling of the pesticide or pesticides covered by his certification prior to purchase and use of the product; and

(4) the applicant shall be required to obtain approval from the department for each application involving a specific risk to the environment. The applicant shall submit to the department an application form for a special review permit. The application shall include detailed information on the intended use, the responsible person in charge and the equipment and conditions under which the pesticide application is to be made. The department in reviewing the application for a special review permit may require additional restrictions such as on-site inspection or supervision.

C. The department shall charge the prescribed fee for each certification.

D. If a private applicator does not qualify, the department shall inform the applicant in writing.

E. Private applicator certification shall be valid for a period of not less than three years, established by the board.

History: 1953 Comp., § 45-25-20, enacted by Laws 1973, ch. 366, § 20; 1979, ch. 394, § 7.

76-4-20.1. Noncommercial applicator license.

A. A noncommercial applicator shall not use a restricted use or state restricted use pesticide without having a valid current noncommercial applicator license issued by the department for the license use

categories and subcategories in which the pesticide application is made.

B. Application for an original or renewal license shall be on a form prescribed by the department. An annual prescribed fee shall be charged for each noncommercial applicator license issued.

C. The department shall not issue a noncommercial applicator license until the applicant has passed a written certification examination to demonstrate to the department the applicant's knowledge of how to apply pesticides under the classifications for which the applicant has applied and the applicant's knowledge of the nature and effect of pesticides the applicant may apply under such classifications.

D. The department shall renew any applicant's license under the classification for which the applicant is certified; provided that the applicant's license is not under a suspension or revocation order and the applicant has complied with the provisions of the Pesticide Control Act.

E. Nothing in this section shall imply the right to apply pesticides for hire without first having obtained a commercial applicator license.

History: Laws 1979, ch. 394, § 8; 2009, ch. 101, § 3; 2009, ch. 109, § 3.

ANNOTATIONS

The 2009 amendment, effective June 19, 2009, in Subsection A, at the beginning of the sentence, deleted the phrase "Any person who is not a private applicator, commercial applicator or public applicator, except a person working under their direct supervision" and added the phrase "A noncommercial applicator".

Laws 2009, ch. 101, § 3 and Laws 2009, ch. 109, § 3 enacted identical amendments to this section. The section was set out as amended by Laws 2009, ch. 109, § 3. *See* 12-1-8 NMSA 1978.

76-4-21. Expiration date of licenses.

The board shall set by regulation the expiration date for the annual pesticide registration or any license provided for in the Pesticide Control Act.

History: 1953 Comp., § 45-25-21, enacted by Laws 1973, ch. 366, § 21; 1979, ch. 394, § 9.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 101.

76-4-22. Fees.

A. Fees for the registration of pesticides, the various licenses, inspection of apparatuses and examination of applicants required by the Pesticide Control Act shall be set by the board not to exceed the amount authorized below:

(1) annual registration fee for each pesticide or device registered, not more than $150;

(2) annual pesticide dealer license for each location or outlet within the state or, if there is no outlet in the state, for the principal out-of-state location or outlet, not more than $100;

(3) annual pest management consultant license, not more than $100;

(4) annual commercial pesticide applicator license, not more than $100;

(5) annual operator license, not more than $75.00;

(6) annual noncommercial applicator license, not more than $100;

(7) private applicator certification or renewal, not more than $25.00;

(8) additional inspection required to certify each unit of aircraft, ground or manual equipment that fails to pass inspection, not more than. $25.00;

and

(9) examination fee for each examination needed to qualify the applicant as a pest management consultant, commercial pesticide applicator, noncommercial applicator or operator or any combination thereof, not more than $20.00;

provided that the board may index the amount of a fee for inflation until July 1, 2031 using the consumer price index for all urban consumers: all items published by the United States department of labor.

B. If the application for the renewal of a pesticide registration or any annual license provided for in the Pesticide Control Act is not filed prior to the expiration date of the prior registration or license, the fee for renewal of registration or license shall be double the amount charged for the prior registration or license and shall be paid by the applicant before the renewal registration or license is issued. Any person holding a current valid license may renew the license for the next year without taking an examination unless the department determines that additional knowledge relating to the classification for which the applicant has applied makes a new examination necessary. However, if the license is not renewed within thirty days after expiration, the licensee shall be required to take new certification examinations.

History: 1953 Comp., § 45-25-22, enacted by Laws 1973, ch. 366, § 22; 1979, ch. 394, § 10; 2005, ch. 200, § 1; 2026, ch. 13, § 3.

ANNOTATIONS

The 2026 amendment, effective July 1, 2026, authorized the board of regents of New Mexico state university to impose increases to fees up to the rate of inflation measured in the consumer price index for all urban consumers through the end of fiscal year 2031, and made conforming amendments; in Subsection A, Paragraph A(9), after the semicolon, added the remainder of the paragraph; and in Subsection B, after

"double the amount" deleted "specified in this section" and added "charged for the prior registration or license".

The 2005 amendment, effective June 17, 2005, increased the registration fees in Subsection A(1) through (7) and (9).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 95.

76-4-23. Grounds for denial, suspension or revocation of license, permit or certification; acts constituting a violation of the Pesticide Control Act.

A. The department may deny application for any license, permit or certification or may suspend any license, permit or certification when it has reason to believe that the applicant for or the holder of such license, permit or certification has violated any of the provisions of Subsection B of this section.

B. It is a violation of the Pesticide Control Act for any person to:

(1) make a false or fraudulent claim through any media which misrepresents the effect of material or methods to be used;

(2) make a pesticide recommendation or to use a pesticide in a manner inconsistent with the labeling;

(3) apply known ineffective or improper materials;

(4) operate faulty or unsafe apparatus;

(5) operate in a faulty, careless or negligent manner;

(6) refuse or, after notice, neglect to comply with the provisions of the Pesticide Control Act or the rules and regulations adopted pursuant thereto;

(7) refuse or neglect to keep and maintain the records or to make reports when and as required by the Pesticide Control Act or rules and regulations adopted pursuant thereto;

(8) make false or fraudulent records, invoices or reports;

(9) engage in the business of applying a pesticide on the land of another without having a licensed applicator or operator in direct "on-the-job" supervision;

(10) use fraud or misrepresentation in making an application for a license or renewal of a license;

(11) refuse or neglect to comply with any limitation or restriction on or in a duly issued license or permit;

(12) aid or abet a licensed or an unlicensed person to evade any provision of the Pesticide Control Act, conspire with a licensed or an unlicensed person to evade the provisions of the Pesticide Control Act or allow one's license to be used by an unlicensed person;

(13) make false or misleading statements during or after an inspection concerning any infestation or infection of pests found on land;

(14) impersonate any state, county or city inspector or official;

(15) perform the type of pest control under the conditions and in the locality in which he operates or has operated, whether or not he has previously passed an examination, when not qualified;

(16) use, or supervise the use of, a pesticide which is restricted to use by certified applicators when not qualified as a certified applicator; or

(17) make pesticide recommendations or apply pesticides without having the proper certification or license.

C. Any person who has had a license, permit or certification denied, suspended or revoked by the department may request a hearing before the department. The request for a hearing shall be made within fifteen days of receipt of a certified letter notifying him of the department's action.

History: 1953 Comp., § 45-25-23, enacted by Laws 1973, ch. 366, § 23; 1979, ch. 394, § 11.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 20.

Liability of termite or other pest control or inspection contractor for work or representations, 32 A.L.R.4th 682.

76-4-24. Surety bond or insurance required of commercial pesticide applicators.

The department shall not issue a commercial pesticide applicator license until the applicant has furnished evidence of financial responsibility with the department consisting either of a surety bond or a liability insurance policy or certification thereof, protecting persons who may suffer legal damages as a result of the operations of the applicant. However, the surety bond or liability insurance policy need not apply to damages or injury to land being worked upon by the applicant. The department shall not accept a surety bond or liability insurance policy except from authorized insurers or surplus line brokers authorized to do business in the state.

A. The amount of the surety bond or liability insurance as provided for in this section shall be set by the board. The surety bond or liability insurance shall be maintained, at a sum not less than that specified by the board, at all times during the license period. The department shall be notified ten days prior to any reduction made at the request of the applicant or cancellation of the surety bond or liability insurance by the surety or insurer. The department may accept a liability insurance policy or surety bond in the proper sum which has a deductible clause in an amount prescribed by the board. If the applicant has not satisfied the requirements of the deductible amount in any prior legal claim, such deductible clause shall not be accepted by the department unless the applicant furnishes the department with a surety bond or liability insurance which shall satisfy the amount of the deductible pertaining to all claims that may arise in his application of pesticides.

B. The applicator license shall, whenever the surety bond or insurance policy of the licensee is reduced below the requirements of the Pesticide Control Act and regulations adopted pursuant thereto, be automatically suspended until the surety bond or insurance policy again meets these requirements. The department may retrieve the license plates or decal of the licensee during the period of automatic suspension

and return them only when the licensee has furnished the department with written proof that he is again in compliance.

C. Nothing in the Pesticide Control Act shall be construed to relieve any person from liability for any damage to the person or lands of another caused by the use of pesticides, even though such use conforms to the rules and regulations of the board.

History: 1953 Comp., § 45-25-24, enacted by Laws 1973, ch. 366, § 24.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 101.

76-4-25. Damaged person must file report of loss; contents; time of filing; effect of failure to file.

A. Any person suffering a loss or damage resulting from the use or application by others of any pesticide shall file with the department a verified report of loss setting forth, so far as known to the claimant, the following:

(1) the name and address of the claimant;

(2) the type of land alleged to be injured or damaged;

(3) the name of the person applying the pesticide and allegedly responsible;

(4) the name of the owner or occupant of the property for whom the pesticide application was made; and

(5) additional information as requested by the department.

B. The report must be filed within sixty days from the time that the loss or damage becomes known to the claimant. If a growing crop is alleged to have been damaged, the report must be filed prior to harvest of fifty percent of that crop, unless the loss or damage was not then known. The department may prepare a form to be furnished to persons making a report of alleged damages. This form shall contain other requirements as the department deems necessary. The department may, upon receipt of the alleged damage report, notify the licensee and the owner or lessee of the land or other person who may be charged with the responsibility, of the damages claimed, and furnish copies of the statements as may be requested. The department shall inspect damages whenever possible, and when they determine that the complaint has sufficient merit, they shall make the information available to the person claiming damage and to the person who is alleged to have caused the damage.

C. The filing of a report or the failure to file a report need not be alleged in any complaint which might be filed in a court of law, and the failure to file the report shall not be considered any bar to the maintenance of any action.

D. The failure to file the report shall not be a violation of this act. However, if the person failing to file the report is the only one injured from the use or application of a pesticide by others, the department may, when in

the public interest, refuse to hold a hearing for the denial, suspension or revocation of a license or permit issued under the Pesticide Control Act until the report is filed.

E. Where damage is alleged to have occurred, the claimant shall permit the department, the licensee and his representatives, such as bondsman or insurer, to observe and examine the lands or nontarget organism alleged to have been damaged. Failure of the claimant to permit the observation and examination of the damaged lands shall automatically bar the claim against the licensee.

History: 1953 Comp., § 45-25-25, enacted by Laws 1973, ch. 366, § 25.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 47.

Infliction of emotional distress: toxic exposure, 6 A.L.R.5th 162.

3 C.J.S. Agriculture § 86.

76-4-26. Inspection of equipment.

A. The department shall provide for an annual inspection of any equipment used for the application of pesticides by a commercial pesticide applicator and may require repairs or other changes before the equipment is used to apply pesticides. A list of requirements that the equipment shall meet shall be provided by the department.

B. Any piece of equipment which fails inspection shall have affixed to it an out-of-order seal. The equipment shall not be put back into service until it has passed reinspection and the out-of-order seal is removed by the department. A prescribed inspection fee shall be charged for each reinspection.

History: 1953 Comp., § 45-25-26, enacted by Laws 1973, ch. 366, § 26; 1979, ch. 394, § 12.

76-4-27. License plates or decals for apparatus.

Each licensed apparatus shall be identified by a license plate or decal furnished by the department, at no cost to the licensee. The license plate or decal shall be affixed in a location and manner upon the application apparatus as prescribed by the department.

History: 1953 Comp., § 45-25-27, enacted by Laws 1973, ch. 366, § 27.

76-4-28. Farmer or rancher exemption.

Except for the use of restricted use pesticides the provisions of the Pesticide Control Act relating to licenses and requirements for their issuance shall not apply to any farmer or rancher owner of a ground or manual apparatus applying pesticides for himself or his farmer or rancher neighbors, when he:

A. operates farm or ranch property and operates and maintains pesticide application equipment primarily for his own use;

B. is not regularly engaged in the business of applying pesticides for hire amounting to a principal or regular occupation and he does not publicly solicit business as a pesticide applicator; or

C. operates his pesticide application equipment only in the vicinity of his own property and for the accommodation of his neighbors.

History: 1953 Comp., § 45-25-28, enacted by Laws 1973, ch. 366, § 28.

ANNOTATIONS

76-4-29. Repealed.

ANNOTATIONS

Repeals. — Laws 1979, ch. 394, § 15, repealed 76-4-29 NMSA 1978, as enacted by Laws 1973, ch. 366, § 29, relating to the exemption of landscape gardeners from the provisions of the Pesticide Control Act.

76-4-30. Discarding and storing of pesticides and pesticide containers.

No person shall discard, transport or distribute any pesticide or pesticide container in a manner that may cause injury to humans, vegetation, crops, livestock, wildlife or beneficial insects or pollute any waterway.

History: 1953 Comp., § 45-25-30, enacted by Laws 1973, ch. 366, § 30.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 42.

76-4-31. Access to public or private premises.

A. For the purpose of carrying out the provisions of the Pesticide Control Act, the department is authorized upon presentation of proper identification and with consent of the owner or by court order, to enter any public or private premises, in order to:

(1) inspect any apparatus subject to the Pesticide Control Act and the premises on which the apparatus is kept or stored;

(2) inspect lands actually or reported to be exposed to pesticides;

(3) inspect storage or disposal areas;

(4) inspect or investigate complaints of injury to humans or land;

(5) sample pesticides being applied or to be applied; or

(6) sample land, including agricultural products, for pesticide residues.

B. If it appears that a pesticide apparatus or device fails to comply with the provisions of the Pesticide Control Act or regulations adopted thereunder, and if the department contemplates instituting proceedings against any person, the department shall cause notice to be given to the person. Any person so notified shall be given an opportunity to present his views, either orally or in writing, with regard to the contemplated proceedings. If thereafter, in the opinion of the department, it appears that the provisions of the Pesticide Control Act or regulations adopted thereunder have been violated by the person, the department shall refer a copy of the results of the analysis or the examination of the pesticide apparatus or device to the district attorney for the county in which the violation occurred. It is the duty of the district attorney to whom any violation of the Pesticide Control Act is reported to cause appropriate proceedings to be instituted and prosecute in a court of competent jurisdiction without delay.

C. Nothing in the Pesticide Control Act shall be construed as requiring the department to report, for prosecution or the institution of condemnation proceedings, minor violations of the Pesticide Control Act when the department believes that the public interest will be best served by a notice of warning in writing.

D. Should the department be denied access to any land where access was sought for the purposes set forth in the Pesticide Control Act, they may apply to any court of competent jurisdiction for a search warrant for the purpose requested.

History: 1953 Comp., § 45-25-31, enacted by Laws 1973, ch. 366, § 31.

ANNOTATIONS

Cross references. — For inspection of apparatus, *see* 76-4-26 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 42, 50.

3 C.J.S. Agriculture § 83.

76-4-32. Classification of licenses.

A. The department may classify licenses to be issued under the Pesticide Control Act. Such classifications may include recommending pesticides to be used in or on land, including but not limited to agricultural crops, ornamentals, structures and noncrop land or to treat regulated products or equipment. If the licensee has a classified license, he shall be limited to practicing within such classification. Each classification shall be subject to separate testing procedures and requirements. No person shall be required to pay an additional license fee if he desires to be licensed in one or all of the license classifications.

B. The department may classify pesticide applicator and operator licenses to be issued under the Pesticide Control Act. the classifications may include, but not be limited to pest control operations, fumigators, ornamental or agricultural pesticide applicators or right-of-way pesticide applicators. Separate classifications may be specified for ground, aerial or manual methods used by any licensee to apply pesticides or to the use of pesticides to control pests. Each classification shall be subject to separate testing procedures and

requirements. No person shall be required to pay an additional license fee if the person desires to be licensed in one or all of the license classifications.

History: 1953 Comp., § 45-25-32, enacted by Laws 1973, ch. 366, § 32.

ANNOTATIONS

76-4-33. Records.

A. Any person issued a license or permit under the provisions of the Pesticide Control Act shall keep such records as required by regulation of the board.

B. Commercial pesticide applicators licensed under the provisions of the Pesticide Control Act shall keep such records as prescribed by regulation of the board.

C. The department shall have access to the records at any reasonable time to copy or make copies of the records for the purpose of carrying out the provisions of the Pesticide Control Act. Unless required for the enforcement of the Pesticide Control Act, the information shall be confidential and, if summarized, shall not identify any individual person.

History: 1953 Comp., § 45-25-33, enacted by Laws 1973, ch. 366, § 33.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 95.

76-4-34. Penalties.

A. Any person violating any provision or requirement of the Pesticide Control Act or regulations adopted by the board pursuant to that act is guilty of a petty misdemeanor.

B. In addition to any other penalties imposed by the Pesticide Control Act, any person who willfully or repeatedly violates any provision of that act may be assessed by the court a civil penalty not to exceed one thousand dollars ($1,000) for each violation.

C. The board may bring an action to enjoin the violation or threatened violation of any provision of the Pesticide Control Act or any regulation made pursuant thereto in a court of competent jurisdiction of the county in which the violation occurs or is about to occur.

D. The department, acting as a law enforcement officer, is authorized to file a criminal complaint in a magistrate court for violations of the Pesticide Control Act or regulations adopted pursuant thereto and shall not be required to pay the docket fee.

History: 1953 Comp., § 45-25-34, enacted by Laws 1973, ch. 366, § 34; 1979, ch. 394, § 13.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 42, 50, 51.

3 C.J.S. Agriculture § 7.

76-4-35. Persons exempted from certain penalties.

A. The penalties provided for violations of Paragraphs (1) through (5) of Subsection A of Section 5 [76-4-5 NMSA 1978] of the Pesticide Control Act shall not apply to:

(1) any carrier while lawfully engaged in transporting a pesticide within this state, if such carrier shall, upon request, permit the department to copy all records showing the transactions in and movement of the pesticides or devices;

(2) public officials of this state and the federal government while engaged in the performance of their official duties in administering state or federal pesticide laws or regulations or while engaged in pesticide research; or

(3) the manufacturer or shipper of a pesticide for experimental use only by or under the supervision of an agency of this state or of the federal government authorized by law to conduct research in the field of pesticides if the manufacturer or shipper holds a valid experimental use permit issued by the department and by the United States environmental protection agency.

B. No pesticide or device shall be deemed in violation of the Pesticide Control Act when intended solely for export to a foreign country and when prepared or packed according to the specifications or directions of the purchaser. If not so exported, all the provisions of the Pesticide Control Act and regulations adopted thereunder shall apply.

History: 1953 Comp., § 45-25-35, enacted by Laws 1973, ch. 366, § 35.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 21, 66.

3 C.J.S. Agriculture § 53.

76-4-36. Repealed.

History: 1953 Comp., § 45-25-36, enacted by Laws 1973, ch. 366, § 36; 1977, ch. 253, § 49; 1978, ch. 39, § 1; 1979, ch. 394, § 14; 1983, ch. 296, § 29; repealed Laws 2005, ch. 235, § 1.

ANNOTATIONS

Repeals. — Laws 2005, ch. 235, § 1 repealed 76-4-36 NMSA 1978, as enacted by Laws 1973, ch. 366, § 36, relating to the pesticide advisory board, effective June 17, 2005. For provisions of former section, *see*

the 2004 NMSA 1978 on *NMOneSource.com*.

76-4-37. Publication of information.

The department may publish, in the form it deems proper, results of products analyzed, based on official samples as compared with the guaranteed analysis and information concerning the distribution and use of pesticides. Individual distribution and use information shall not be a public record. The department may also publish results of samples analyzed for pesticide residues.

History: 1953 Comp., § 45-25-37, enacted by Laws 1973, ch. 366, § 37.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 95.

76-4-38. Cooperation.

The department may cooperate, receive grants-in-aid and enter into cooperative agreements with any agency of the federal government, of this state or its subdivisions, or with any agency of another state, in order to:

A. secure uniformity of regulations;

B. enter into cooperative agreements with the United States environmental protection agency to register pesticides under the authority of the Pesticide Control Act and the federal Environmental Pesticide Control Act;

C. cooperate in the enforcement of the federal Environmental Pesticide Control Act and regulations through the use of state or federal personnel and facilities or both and to implement cooperative enforcement programs including but not limited to the registration of pesticides, collection and analysis of pesticides and devices, inspection of storage facilities and certification of applicators;

D. enter into contracts with other agencies including federal agencies for the purpose of training pesticide dealers, pesticide management consultants, pesticide applicators or operators;

E. publish information and conduct short courses on the storage, transportation, distribution, application, use, registration and disposal of pesticides and devices and environmental implications thereof;

F. enter into contracts for either monitoring pesticides, or analyzing land, including agricultural products that will be consumed by any living organism other than plants, for pesticide residues, or both;

G. prepare and submit a state plan to meet federal certification standards including issuing experimental use permits; and

H. regulate pesticide applicators and operators.

History: 1953 Comp., § 45-25-38, enacted by Laws 1973, ch. 366, § 38.

ANNOTATIONS

Cross references. — For the federal Environmental Pesticide Control Act, *see* 7 U.S.C. § 136 et seq.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 22 to 37, 43.

3 C.J.S. Agriculture §§ 25 to 56.

76-4-39. Disposition of funds.

All moneys received by the department under the provisions of the Pesticide Control Act shall be expended for the purpose of carrying out the provisions of the Pesticide Control Act.

History: 1953 Comp., § 45-25-39, enacted by Laws 1973, ch. 366, § 39.

ANNOTATIONS

Severability. — Laws 1973, ch. 366, § 43, provided for the severability of the act if any part or application thereof is held invalid.

Comments

Control of Wood Destroying Pests — NMAC 21.17.53 Public Comments

Name: Alan Feuer, ACE Technical and Leadership Consultant Associate Certified Entomologist Emeritus

Email: alan@ppcabq.com

Submitted on: June 24, 2026, 9:43 AM

Comment: I make the following suggestions, all based on the 7D rules update.

1. For consistency, perhaps consider changing the term "licensed termite service technician" to "wood destroying pest operator". This aligns with the term "operator" used elsewhere in the rules. Additionally, replacing "termite" with "wood destroying pest management" would clarify that this role is NOT just for termites.
2. Perhaps this is also the time to better define the recordkeeping expectations for the "detailed drawing on graph paper," which has been an issue for quite some time. I might suggest the following details.
    1. For all control efforts targeting wood-destroying organisms that involve pesticide use, a detailed drawing on graph paper is required. This drawing must be to scale, with linear measurements accurate within 5% (e.g., a 50-foot measurement must be recorded within +/- 2.5 feet). Additionally the following details must be included.
        1. All foundation details must include the type (monolithic, floating, crawl, basement), footing depth, interior foundation breaks and elevation changes (at garages, sunken rooms, additions, etc.) and any other treated elements such as crawl space piers, plumbing stacks and penetrations, interior control joints and settlement cracks.
        2. List all infestation points identified on the date of treatment, including the type of wood destroying organism the treatment was intended to manage.
        3. All treatment points and locations for pest control must clearly indicate the control measure or method used.
        4. Identify any areas of the structure not treated to label specifications/requirements and the reasons why.

Hearing Sign-In Sheets

Japanese Beetle +

PESTICIDES RULEMAKING HEARING

PROJECT: NMDA Rulemaking **MEETING DATE:** August ~~5~~ 4, 2026

FACILITATOR: Les Owen/Brad Lewis **LOCATION:** ~~Albuquerque~~ Las Cruces, NM

NAME	PHONE (OPTIONAL)	EMAIL (OPTIONAL)
Teri Cates	575-740-2980	tericates@yahoo.com
MARGARET Adams	575 635-5476	peggy.adams@bugyman.com

Japanese Beetle Quarantine Rule +

PESTICIDES RULEMAKING HEARING

PROJECT:	NMDA Rulemaking	**MEETING DATE:**	August 6, 2026
FACILITATOR:	Les Owen/Brad Lewis	**LOCATION:**	Albuquerque, NM

NAME	PHONE (OPTIONAL)	EMAIL (OPTIONAL)
Alan ~~Feuer~~ Feuer	505 918 3121 ~~301~~	ALAN@PPCABQ.Com
Kyleigh Serna		kserna@plantworldinc.com
Dixie Mussaw	505-227-1701	Dixie.Mussaw@heritageppg.com
Chris Benavidez	505-254-1133	cbenavidez@plantworldinc.com
John Crowley	505.307.8695	John.Crowley@Monrovia.Com

SIGNATURE: In witness whereof, we have caused the seal of the Board of Regents of New Mexico State University to be affixed this 1st day of October 2026, for approval of:

Proposed Repeal and Replacement of the Control of Wood Destroying Pests Rule, Title 21, Chapter 17, Part 51 of the New Mexico Administrative Code (21.17.51 NMAC).

_____

Ammu Devasthali, Chair
Board of Regents
New Mexico State University

Attest:

_____

Christopher Saucedo, Sec./Treasurer
Board of Regents
New Mexico State University

Board of Regents Meeting
Meeting Date: October 1, 2026
Agenda Item Cover Page

Agenda Item # IX.D

☐ Action Item
☒ Consent Item
☐ Informational Item

Presented By:
Jeff M. Witte
Director/Secretary New Mexico Department of Agriculture (NMDA)

Agenda Item:

Proposed Repeal and Replacement of the Japanese Beetle Exterior Quarantine Rule, Title 21, Chapter 17, Part 27 of the New Mexico Administrative Code (21.17.27 NMAC)

Requested Action of the Board of Regents:

Approval of Repeal and Replacement of 21.17.27 NMAC, Japanese Beetle Exterior Quarantine Rule.

Executive Summary:

The New Mexico Department of Agriculture (NMDA) held two hearings regarding the proposed repeal and replacement of 21.17.27 NMAC. On Tuesday, August 4, 2026, at 9:00 a.m. a public video/telephonic and in-person hearing was held at Gerald Thomas Hall Auditorium (Rm 194), New Mexico State University, located at 940 College Drive in Las Cruces, NM 88003. On Thursday, August 6, 2026, at 9:00 a.m. an in-person hearing was held at the CNM Workforce Training Center located at 5600 Eagle Rock Ave, NE in Albuquerque, NM 87113.

The Rulemaking Notice was published in the New Mexico Register on June 23, 2026. Notice was provided to the Sunshine Portal, in the Santa Fe New Mexican (both English and Spanish), the Albuquerque Journal, The Las Cruces Sun News, and the NMDA website. Notification and the proposed rule were sent to the New Mexico Economic Development's Small Business Regulatory Advisory Commission and to Legislative Council Service. NMDA has not received findings from either. Notice of public hearings was also sent to pesticide licensed individuals and businesses impacted by the amendments; to the Pest Management Association, a state industry organization representing licensed pesticide applicators; and to the Household Consumer Product Association, a national industry organization representing pesticide manufacturers.

The hearing officer provided the following information for my consideration. I agree with the hearing officer's recommendation and thereby recommend the following for your consideration.

Hearing Officer's Report

This memorandum serves as a summary of the hearings conducted on August 4 and 6, 2026. The information is presented for your review and to assist you in formulating a recommendation to the New Mexico State University Board of Regents regarding the adoption of the proposed repeal and replacement of the Japanese Beetle Exterior Quarantine Rule, Title 21, Chapter 17, Part 27 of the New Mexico Administrative Code.

The age of the Japanese Beetle Exterior Quarantine Rule and extensive amendments necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: additional terms added to the definition section to clarify regulatory requirements; scope of Japanese beetle quarantined areas expanded from 36 states to all U.S. states and specific Canadian provinces; scope of regulated articles expanded to include additional nursery stock items; compliance agreements (issued by NMDA) required for shipment of regulated articles into New Mexico; departments of agriculture in originating states provided options to petition NMDA for areawide or single-nursery compliance agreements; treatment requirements clarified for shipment of regulated articles into New Mexico; exceptions from compliance agreement requirements provided for small (under 10-inch container diameter) non-gramineous nursery stock; and requirement for small (under 10-inch container diameter) non-gramineous nursery stock to be treated and accompanied by a phytosanitary certificate for shipment into New Mexico.

Given the extensive outreach that was done and with full consideration given to the public comments received, it is my recommendation that the proposed repeal and replacement of 21.17.27 NMAC be adopted without changes.

References:

Section 76-1-2C NMSA 1978, authorizes the board of regents of New Mexico State University, relative to the New Mexico Department of Agriculture, the authority to adopt and file in compliance with the State Rules Act [Chapter 14, Article 4 NMSA 1978], regulations as may be necessary to carry out its duties.

Prior Approvals:

Agenda Item Approved By:

Each office may determine required signatures (if any). All items should be routed through the President's Office, University General Counsel, or the Secretary of NMDA as appropriate.



9/15/2026

Jeff M. Witte
Director/Secretary

Date

RULEMAKING PACKET-BOARD OF REGENTS

Japanese Beetle Exterior Quarantine

NMDA
New Mexico Department of Agriculture

Official Record

New Mexico Department of Agriculture

Repeal and Replace 21.17.27 NMAC

NMDA Rulemaking

October 1, 2026

NMDA
New Mexico Department of Agriculture

NMDA Rulemaking
21.17.27 NMAC

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Director/Secretary Recommendation Memo

NEW MEXICO DEPARTMENT OF AGRICULTURE
Office of the Director/Secretary
MSC 3189
New Mexico State University
P.O. Box 30005
Las Cruces, NM 88003-8005
Phone: (575) 649-0505

September 10, 2026

MEMORANDUM

TO: New Mexico State University Board of Regents

FROM: Jeff M. Witte, Director/Secretary

SUBJECT: Recommendation to Adopt the Hearing Officer's Recommendation
RE: New Mexico Department of Agriculture Hearings on Proposed Repeal and Replacement of the Japanese Beetle Exterior Quarantine Rule, Title 21, Chapter 17, Part 27 of the New Mexico Administrative Code (21.17.27 NMAC) (Attached)

BACKGROUND INFORMATION

The New Mexico Department of agriculture (NMDA) held two hearings regarding the proposed repeal and replacement of 21.17.27 NMAC, Japanese Beetle Exterior Quarantine. On Tuesday, August 4, 2026, at 9 a.m. a public video/telephonic and in-person hearing was held at Gerald Thomas Hall Auditorium (Rm 194), New Mexico State University, located at 940 College Drive in Las Cruces, NM 88003. On Thursday, August 6, 2026, at 9 a.m. an in-person hearing was held at the CNM Workforce Training Center located at 5600 Eagle Rock Ave, NE in Albuquerque, NM 87113.

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The hearing officer provided the following information for my consideration. I agree with the hearing officer's recommendation and thereby recommend the following for your consideration.

HEARING OFFICER'S REPORT

This memorandum serves as a summary of the hearings conducted on August 4 and 6, 2026. The information is presented for your review and to assist you in formulating a recommendation to the New Mexico State University Board of Regents regarding the adoption of the proposed repeal and replacement of the Japanese Beetle Exterior Quarantine Rule, Title 21, Chapter 17, Part 27 of the New Mexico Administrative Code.

The age of the Japanese Beetle Exterior Quarantine Rule and extensive amendments necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: additional terms added to the definition section to clarify regulatory requirements; scope of Japanese beetle quarantined areas expanded from 36 states to all U.S. states and specific Canadian provinces; scope of regulated articles expanded to include additional nursery stock items; compliance agreements (issued by NMDA) required for shipment of regulated articles into New Mexico; departments of agriculture in originating states provided options to petition NMDA for areawide or single-nursery compliance agreements; treatment requirements clarified for shipment of regulated articles into New Mexico; exceptions from compliance agreement requirements provided for small (under 10-inch container diameter) non-gramineous nursery stock; and requirement for small (under 10-inch container diameter) non-gramineous nursery stock to be treated and accompanied by a phytosanitary certificate for shipment into New Mexico.

Given the extensive outreach that was done and with full consideration given to the public comments received, it is my recommendation that the proposed repeal and replacement of 21.17.27 NMAC be adopted without changes.

Initial Proposed Rule

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 17 PEST, DISEASE, AND WEED CONTROL
PART 27 JAPANESE BEETLE EXTERIOR QUARANTINE

21.17.27.1 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
[21.17.27.1 NMAC - Rp, 21.17.27.1 NMAC, 9/01/2027]

21.17.27.2 SCOPE: Part 27 shall apply to all persons transporting regulated articles into and through New Mexico.
[21.17.27.1 NMAC - Rp, 21.17.27.1 NMAC, 9/01/2027]

21.17.27.3 STATUTORY AUTHORITY: Granted to the board of regents of New Mexico state university under the Pest Control Act, Chapter 76, Article 6, Sections 1 through 9 NMSA 1978 compilations.
[21.17.27.1 NMAC - Rp, 21.17.27.1 NMAC, 9/01/2027]

21.17.27.4 DURATION: Permanent.
[21.17.27.1 NMAC - Rp, 21.17.27.1 NMAC, 9/01/2027]

21.17.27.5 EFFECTIVE DATE: September 1, 2027 unless a later date is cited at the end of a section.
[21.17.27.1 NMAC - Rp, 21.17.27.1 NMAC, 9/01/2027]

21.17.27.6 OBJECTIVE: Japanese beetle continues to be introduced into previously uninfested western states, primarily through the shipment of infested nursery stock originating from infested areas. Improper insecticide applications (timing, rate etc.), disregard of destination states' quarantines, and transshipment of nursery stock all contribute to Japanese beetle spread. The objective of Part 27, Chapter 17 is to reduce the risk of introducing Japanese beetle into New Mexico by requiring compliance agreements and state phytosanitary certificates associated with nursery stock shipments into New Mexico. Note that New Mexico does not recognize all elements of the Japanese beetle harmonization plan.
[21.17.27.1 NMAC - Rp, 21.17.27.1 NMAC, 9/01/2027]

21.17.27.7 DEFINITIONS:

A. **"Board"** means the board of regents of New Mexico state university or any officer or employee to whom authority to act in their stead has been or hereafter may be delegated.

B. **"Compliance agreement"** means a written and signed contract issued by the department to the origin state department of agriculture, exporting nursery and other parties. Compliance agreements shall state import requirements, including phytosanitary certificate declarations, insecticide treatment requirements, and trapping protocols that will support the movement of regulated articles from quarantined areas to New Mexico.

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

D. **"Director"** means the director of New Mexico department of agriculture.

E. **"Free of soil"** means absence of soil or planting media in an amount that may harbor Japanese beetle as determined by the department.

F. **"Gramineous"** means plants belonging to the poales order that display long, narrow (linear), grass-like leaves and grow with roots embedded in or in contact with soil or soilless media including ornamental grasses, sedges, rushes, and grass sod. For the purpose of this quarantine, gramineous excludes soilless plugs.

G. "**Infested"** means the presence of Japanese beetle or circumstances that indicate Japanese beetle may be present or the actual status of the presence of Japanese beetle is not determinable as determined by the department.

H. **"Nongramineous"** means any plant that is not gramineous, as defined in 21.17.27.7 NMAC.

I. **"Nursery"** means any location in which nursery stock is propagated, cultivated or maintained including sod farms.

J. **"Phytosanitary Certificate"** an official document or equivalent issued by the origin state's department of agriculture affirming compliance with quarantine rule or compliance agreement requirements.

K. **"Transship**" means to ship nursery stock previously maintained or growing at a location other than the nursery exporting to New Mexico within the previous 12 months.
[21.17.27.7 NMAC - Rp, 21.17.27.7 NMAC, 9/01/2027]

21.17.27.8 JAPANESE BEETLE EXTERIOR QUARANTINE:

A. Pest: Japanese beetle, *Popillia japonica*.

B. Areas under quarantine: All states of the United States including the District of Columbia; and Canadian provinces of New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island and Quebec.

C. Any areas not listed in Subsection B of 21.17.27.8 NMAC where Japanese beetle has been found or areas where Japanese beetle is believed by the department to occur or their status has not been determined shall be included as an area under quarantine.

D. Regulated articles:

(1) Japanese beetle in any living state of development.

(2) All gramineous plants.

(3) Nongramineous plants with roots and soil or soilless medium.

(4) Bulbs, corms, tubers, and rhizomes, unless free of soil.

(5) Unsterilized soil or soilless media.

(6) Any other articles not covered by this subsection are regulated articles when determined by the department that they present a risk of introducing Japanese beetle into New Mexico.

[21.17.27.8 NMAC - Rp, 21.17.27.8 NMAC, 9/01/2027]

21.17.27.9 SHIPPING RESTRICTIONS

A. All regulated articles are prohibited entry into New Mexico from areas under quarantine without a current and signed compliance agreement. All shipments shall be accompanied by a copy of a valid compliance agreement and a phytosanitary certificate as stipulated in the compliance agreement.

B. Shipping documents, phytosanitary certificates, and compliance agreements associated with regulated articles shall be retained by the New Mexico nursery for at least 12 months after delivery. Documents shall be made available to the department upon request.

C. Transhipped regulated articles are prohibited entry into New Mexico unless it originates from a department approved nursery location or otherwise complies with requirements within an approved compliance agreement.

[21.17.27.9 NMAC - Rp, 21.17.27.9 NMAC, 9/01/2027]

21.17.27.10 COMPLIANCE AGREEMENT OPTIONS AND REQUIREMENTS: Compliance agreements may allow for shipments of regulated articles based on one of the following options:

A. Single-Nursery Japanese Beetle Free Compliance Agreement: Regulated articles including gramineous plants originating in locations not infested based on a department approved trapping program. Traps shall be monitored by the origin state department of agriculture, or a department approved third party. Trapping shall have been conducted during the entire previous Japanese beetle flight season at each growing location. Transshipment requirements shall be addressed in each compliance agreement. Transshipments may be allowed from a department approved location. Other requirements as stated by the department apply.

B. Areawide-Nursery Japanese Beetle Free Compliance Agreement: Regulated articles originating in an area, county or state not infested based on a department approved extensive and annual areawide trapping program. Traps shall be monitored by the origin state department of agriculture, or a department approved third party. Trapping shall have been conducted during the entire previous Japanese beetle flight season throughout the area covered under the compliance agreement and in proximity to exporting nurseries. Transshipments, shipments of gramineous plants, prevention measures and treatment requirements shall be addressed in each compliance agreement. Requirements for insecticide treatments shall be based on current and previous Japanese beetle trapping data and shall be addressed within the compliance agreement and in accordance with 21.17.27.11 NMAC. Transshipments may be allowed from a department approved location. Shipment of sod into New Mexico is prohibited under this agreement. Other requirements as stated by the department apply.

C. Exclusionary Facility Compliance Agreement: Regulated articles including gramineous plants grown in certified Japanese beetle exclusion greenhouses located in an infested area or in an area in which the status of Japanese beetle is unknown. Greenhouses to be certified by origin state's department of agriculture as meeting requirements to exclude Japanese beetle. Inspections shall be made annually by the origin state's department of agriculture and inspection reports shall be made available to the department. Compliance agreements issued under this option shall cover only individual nurseries. Transshipment, shipments of gramineous plants, prevention measures and treatment requirements shall be addressed in each compliance agreement. Requirements for

insecticide treatments shall be based on current and previous Japanese beetle trapping data and shall be addressed within the compliance agreement and in accordance with 21.17.27.11 NMAC. Transshipments may be allowed from a department approved location. Shipment of sod into New Mexico is prohibited under this agreement. Other requirements as stated by the department apply.

D. Infested Area Single-Nursery Compliance Agreement: Regulated articles grown in field or in a greenhouse not certified for exclusion in infested locations or in a location in which the status of Japanese beetle is unknown. All regulated articles shall be treated to destroy Japanese beetle infestations in accordance with 21.17.27.11 NMAC. Transshipments, shipments of gramineous plants, prevention measures and treatment requirements shall be addressed in each compliance agreement. Requirements shall include properly timed treatments and a department approved method (e.g., trapping program in the area, degree-day model validated for the area) for determination of first Japanese beetle emergence to ensure proper treatment timing. Compliance agreements issued under this option shall cover only individual nurseries. Shipment of gramineous plants including sod into New Mexico is prohibited under this agreement. Other requirements as stated by the department apply.
[21.17.27.10 NMAC - N, 9/01/2027]

21.17.27.11 CHEMICAL TREATMENT REQUIREMENTS: Treatment of regulated articles as addressed in rule or compliance agreements shall be carried out according to the following requirements.

A. Active ingredients and method of application shall be approved by the department prior to application.

B. Applications shall be timed to ensure all hatching Japanese beetle larvae are eradicated. Timing shall be based on a department approved method (e.g., trapping program in the area, degree-day model validated for the area).

C. Nursery stock treated solely during or following flight period is prohibited from entering New Mexico.

D. Regulated stock requiring treatment must be accompanied by a phytosanitary certificate listing treatment active ingredient and method with the following additional declaration. “The rooted plants were treated to control *Popillia japonica* using a method approved by New Mexico Department of Agriculture.”

E. Regulated stock requiring treatment and covered under a compliance agreement must list the compliance agreement number in the phytosanitary certificate.
[21.17.27.1 NMAC - N, 9/01/2027]

21.17.27.12 EXCEPTIONS:

A. Houseplants maintained in the home and not for sale are exempt.

B. Nongramineous plants with roots and soil or soilless medium attached and growing in containers that have a horizontal diameter less than 78.5 square inches (i.e. 10 inch diameter pot) or shipped as “ball and burlap” with rootballs less than 10 inches in diameter can be shipped without a compliance agreement if they have been treated to destroy Japanese beetle infestations and are accompanied by a phytosanitary certificate. Treatments shall be carried out in accordance with 21.17.27.11 NMAC.

C. Soil samples of one pound or less which are packaged so that no soil will be spilled in transit are exempt.

D. Soil samples of any size collected and shipped to any United States army corps of engineers soil laboratory are exempt.

E. Exceptions may be granted or limited upon departmental review.
[21.17.27.12 NMAC - Rp, 21.17.27.10 NMAC, 9/01/2027]

21.17.27.13 DISPOSITION OF VIOLATIONS: Failure to comply with the Japanese beetle quarantine shall be subject to penalties as provided under Chapter 76, Article 6, Section 9, NMSA 1978. Any non-compliant regulated article will be subject to immediate quarantine and expulsion from the state or destruction under parameters set forth by the department, or other method of disposition as directed by the department that serves the best interest of the state. All mitigation methods including transportation, treatment and disposal of non-compliant regulated articles will be at the expense of the owners, agents or both and performed under the direction of the department. If necessary for the department to incur any cost associated with the disposition of non-compliant regulated articles, the owner, agents or both shall reimburse the department for all costs, including attorney’s fees and cost, incurred by the department. Reimbursement to the department is required within 30 days after notification via issuance of invoice requesting payment. If payment is not received within 30 days of notification, the department shall initiate legal action to collect or recuperate actual cost.

[21.17.27.13 NMAC - Rp, 21.17.27.11 NMAC, 9/01/2027]

21.17.27.14 FEES: Special inspections or other requested services provided by the department will be subject to fees as authorized under Sections 1 through 10 of 21.1.2 NMAC
[21.17.27.14 NMAC – N, 9/01/2027]

21.17.27.15 LIABILITY DISCLAIMER: The board disclaims liability for any costs incurred from inspection or compliance with the provisions of this rule.
[21.17.27.15 NMAC - Rp, 21.17.27.12 NMAC, 9/01/2027]

21.12.27.16 ADDITIONAL LAWS AND REGULATIONS: All regulated articles are further subject to the provisions of any other law, regulation, or regulatory order of the state of New Mexico, the United States or both now in effect or which may hereafter be promulgated.
[21.17.27.16 NMAC - N, 9/01/2027]

History of 21.17.27 NMAC:
21.17.27 NMAC - Japanese Beetle Exterior Quarantine, filed 6/30/2011 was repealed and replaced by 21.17.27 NMAC - Japanese Beetle Exterior Quarantine, effective 9/01/2027.

Final Adopted Rule

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 17 PEST, DISEASE, AND WEED CONTROL
PART 27 JAPANESE BEETLE EXTERIOR QUARANTINE

21.17.27.1 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
[21.17.27.1 NMAC - Rp, 21.17.27.1 NMAC, 9/01/2027]

21.17.27.2 SCOPE: Part 27 shall apply to all persons transporting regulated articles into and through New Mexico.
[21.17.27.1 NMAC - Rp, 21.17.27.1 NMAC, 9/01/2027]

21.17.27.3 STATUTORY AUTHORITY: Granted to the board of regents of New Mexico state university under the Pest Control Act, Chapter 76, Article 6, Sections 1 through 9 NMSA 1978 compilations.
[21.17.27.1 NMAC - Rp, 21.17.27.1 NMAC, 9/01/2027]

21.17.27.4 DURATION: Permanent.
[21.17.27.1 NMAC - Rp, 21.17.27.1 NMAC, 9/01/2027]

21.17.27.5 EFFECTIVE DATE: September 1,2027 unless a later date is cited at the end of a section.
[21.17.27.1 NMAC - Rp, 21.17.27.1 NMAC, 9/01/2027]

21.17.27.6 OBJECTIVE: Japanese beetle continues to be introduced into previously uninfested western states, primarily through the shipment of infested nursery stock originating from infested areas. Improper insecticide applications (timing, rate etc.), disregard of destination states' quarantines, and transshipment of nursery stock all contribute to Japanese beetle spread. The objective of Part 27, Chapter 17 is to reduce the risk of introducing Japanese beetle into New Mexico by requiring compliance agreements and state phytosanitary certificates associated with nursery stock shipments into New Mexico. Note that New Mexico does not recognize all elements of the Japanese beetle harmonization plan.
[21.17.27.1 NMAC - Rp, 21.17.27.1 NMAC, 9/01/2027]

21.17.27.7 DEFINITIONS:

A. **"Board"** means the board of regents of New Mexico state university or any officer or employee to whom authority to act in their stead has been or hereafter may be delegated.

B. **"Compliance agreement"** means a written and signed contract issued by the department to the origin state department of agriculture, exporting nursery and other parties. Compliance agreements shall state import requirements, including phytosanitary certificate declarations, insecticide treatment requirements, and trapping protocols that will support the movement of regulated articles from quarantined areas to New Mexico.

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

D. **"Director"** means the director of New Mexico department of agriculture.

E. **"Free of soil"** means absence of soil or planting media in an amount that may harbor Japanese beetle as determined by the department.

F. **"Gramineous"** means plants belonging to the poales order that display long, narrow (linear), grass-like leaves and grow with roots embedded in or in contact with soil or soilless media including ornamental grasses, sedges, rushes, and grass sod. For the purpose of this quarantine, gramineous excludes soilless plugs.

G. "**Infested"** means the presence of Japanese beetle or circumstances that indicate Japanese beetle may be present or the actual status of the presence of Japanese beetle is not determinable as determined by the department.

H. **"Nongramineous"** means any plant that is not gramineous, as defined in 21.17.27.7 NMAC.

I. **"Nursery"** means any location in which nursery stock is propagated, cultivated or maintained including sod farms.

J. **"Phytosanitary Certificate"** an official document or equivalent issued by the origin state's department of agriculture affirming compliance with quarantine rule or compliance agreement requirements.

K. **"Transship**" means to ship nursery stock previously maintained or growing at a location other than the nursery exporting to New Mexico within the previous 12 months.
[21.17.27.7 NMAC - Rp, 21.17.27.7 NMAC, 9/01/2027]

21.17.27.8 JAPANESE BEETLE EXTERIOR QUARANTINE:

A. Pest: Japanese beetle, *Popillia japonica*.

B. Areas under quarantine: All states of the United States including the District of Columbia; and Canadian provinces of New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island and Quebec.

C. Any areas not listed in Subsection B of 21.17.27.8 NMAC where Japanese beetle has been found or areas where Japanese beetle is believed by the department to occur or their status has not been determined shall be included as an area under quarantine.

D. Regulated articles:

(1) Japanese beetle in any living state of development.

(2) All gramineous plants.

(3) Nongramineous plants with roots and soil or soilless medium.

(4) Bulbs, corms, tubers, and rhizomes, unless free of soil.

(5) Unsterilized soil or soilless media.

(6) Any other articles not covered by this subsection are regulated articles when determined by the department that they present a risk of introducing Japanese beetle into New Mexico.

[21.17.27.8 NMAC - Rp, 21.17.27.8 NMAC, 9/01/2027]

21.17.27.9 SHIPPING RESTRICTIONS

A. All regulated articles are prohibited entry into New Mexico from areas under quarantine without a current and signed compliance agreement. All shipments shall be accompanied by a copy of a valid compliance agreement and a phytosanitary certificate as stipulated in the compliance agreement.

B. Shipping documents, phytosanitary certificates, and compliance agreements associated with regulated articles shall be retained by the New Mexico nursery for at least 12 months after delivery. Documents shall be made available to the department upon request.

C. Transhipped regulated articles are prohibited entry into New Mexico unless it originates from a department approved nursery location or otherwise complies with requirements within an approved compliance agreement.

[21.17.27.9 NMAC - Rp, 21.17.27.9 NMAC, 9/01/2027]

21.17.27.10 COMPLIANCE AGREEMENT OPTIONS AND REQUIREMENTS: Compliance agreements may allow for shipments of regulated articles based on one of the following options:

A. Single-Nursery Japanese Beetle Free Compliance Agreement: Regulated articles including gramineous plants originating in locations not infested based on a department approved trapping program. Traps shall be monitored by the origin state department of agriculture, or a department approved third party. Trapping shall have been conducted during the entire previous Japanese beetle flight season at each growing location. Transshipment requirements shall be addressed in each compliance agreement. Transshipments may be allowed from a department approved location. Other requirements as stated by the department apply.

B. Areawide-Nursery Japanese Beetle Free Compliance Agreement: Regulated articles originating in an area, county or state not infested based on a department approved extensive and annual areawide trapping program. Traps shall be monitored by the origin state department of agriculture, or a department approved third party. Trapping shall have been conducted during the entire previous Japanese beetle flight season throughout the area covered under the compliance agreement and in proximity to exporting nurseries. Transshipments, shipments of gramineous plants, prevention measures and treatment requirements shall be addressed in each compliance agreement. Requirements for insecticide treatments shall be based on current and previous Japanese beetle trapping data and shall be addressed within the compliance agreement and in accordance with 21.17.27.11 NMAC. Transshipments may be allowed from a department approved location. Shipment of sod into New Mexico is prohibited under this agreement. Other requirements as stated by the department apply.

C. Exclusionary Facility Compliance Agreement: Regulated articles including gramineous plants grown in certified Japanese beetle exclusion greenhouses located in an infested area or in an area in which the status of Japanese beetle is unknown. Greenhouses to be certified by origin state's department of agriculture as meeting requirements to exclude Japanese beetle. Inspections shall be made annually by the origin state's department of agriculture and inspection reports shall be made available to the department. Compliance agreements issued under this option shall cover only individual nurseries. Transshipment, shipments of gramineous plants, prevention measures and treatment requirements shall be addressed in each compliance agreement. Requirements for

insecticide treatments shall be based on current and previous Japanese beetle trapping data and shall be addressed within the compliance agreement and in accordance with 21.17.27.11 NMAC. Transshipments may be allowed from a department approved location. Shipment of sod into New Mexico is prohibited under this agreement. Other requirements as stated by the department apply.

D. Infested Area Single-Nursery Compliance Agreement: Regulated articles grown in field or in a greenhouse not certified for exclusion in infested locations or in a location in which the status of Japanese beetle is unknown. All regulated articles shall be treated to destroy Japanese beetle infestations in accordance with 21.17.27.11 NMAC. Transshipments, shipments of gramineous plants, prevention measures and treatment requirements shall be addressed in each compliance agreement. Requirements shall include properly timed treatments and a department approved method (e.g., trapping program in the area, degree-day model validated for the area) for determination of first Japanese beetle emergence to ensure proper treatment timing. Compliance agreements issued under this option shall cover only individual nurseries. Shipment of gramineous plants including sod into New Mexico is prohibited under this agreement. Other requirements as stated by the department apply.
[21.17.27.10 NMAC - N, 9/01/2027]

21.17.27.11 CHEMICAL TREATMENT REQUIREMENTS: Treatment of regulated articles as addressed in rule or compliance agreements shall be carried out according to the following requirements.

A. Active ingredients and method of application shall be approved by the department prior to application.

B. Applications shall be timed to ensure all hatching Japanese beetle larvae are eradicated. Timing shall be based on a department approved method (e.g., trapping program in the area, degree-day model validated for the area).

C. Nursery stock treated solely during or following flight period is prohibited from entering New Mexico.

D. Regulated stock requiring treatment must be accompanied by a phytosanitary certificate listing treatment active ingredient and method with the following additional declaration. “The rooted plants were treated to control *Popillia japonica* using a method approved by New Mexico Department of Agriculture.”

E. Regulated stock requiring treatment and covered under a compliance agreement must list the compliance agreement number in the phytosanitary certificate.
[21.17.27.1 NMAC - N, 9/01/2027]

21.17.27.12 EXCEPTIONS:

A. Houseplants maintained in the home and not for sale are exempt.

B. Nongramineous plants with roots and soil or soilless medium attached and growing in containers that have a horizontal diameter less than 78.5 square inches (i.e. 10 inch diameter pot) or shipped as “ball and burlap” with rootballs less than 10 inches in diameter can be shipped without a compliance agreement if they have been treated to destroy Japanese beetle infestations and are accompanied by a phytosanitary certificate. Treatments shall be carried out in accordance with 21.17.27.11 NMAC.

C. Soil samples of one pound or less which are packaged so that no soil will be spilled in transit are exempt.

D. Soil samples of any size collected and shipped to any United States army corps of engineers soil laboratory are exempt.

E. Exceptions may be granted or limited upon departmental review.
[21.17.27.12 NMAC - Rp, 21.17.27.10 NMAC, 9/01/2027]

21.17.27.13 DISPOSITION OF VIOLATIONS: Failure to comply with the Japanese beetle quarantine shall be subject to penalties as provided under Chapter 76, Article 6, Section 9, NMSA 1978. Any non-compliant regulated article will be subject to immediate quarantine and expulsion from the state or destruction under parameters set forth by the department, or other method of disposition as directed by the department that serves the best interest of the state. All mitigation methods including transportation, treatment and disposal of non-compliant regulated articles will be at the expense of the owners, agents or both and performed under the direction of the department. If necessary for the department to incur any cost associated with the disposition of non-compliant regulated articles, the owner, agents or both shall reimburse the department for all costs, including attorney’s fees and cost, incurred by the department. Reimbursement to the department is required within 30 days after notification via issuance of invoice requesting payment. If payment is not received within 30 days of notification, the department shall initiate legal action to collect or recuperate actual cost.

[21.17.27.13 NMAC - Rp, 21.17.27.11 NMAC, 9/01/2027]

21.17.27.14 FEES: Special inspections or other requested services provided by the department will be subject to fees as authorized under Sections 1 through 10 of 21.1.2 NMAC
[21.17.27.14 NMAC – N, 9/01/2027]

21.17.27.15 LIABILITY DISCLAIMER: The board disclaims liability for any costs incurred from inspection or compliance with the provisions of this rule.
[21.17.27.15 NMAC - Rp, 21.17.27.12 NMAC, 9/01/2027]

21.12.27.16 ADDITIONAL LAWS AND REGULATIONS: All regulated articles are further subject to the provisions of any other law, regulation, or regulatory order of the state of New Mexico, the United States or both now in effect or which may hereafter be promulgated.
[21.17.27.16 NMAC - N, 9/01/2027]

History of 21.17.27 NMAC:
21.17.27 NMAC - Japanese Beetle Exterior Quarantine, filed 6/30/2011 was repealed and replaced by 21.17.27 NMAC - Japanese Beetle Exterior Quarantine, effective 9/01/2027.

Hearing Officer Recommendation Memo

NEW MEXICO DEPARTMENT OF AGRICULTURE
Office of the Director/Secretary
MSC 3189
New Mexico State University
P.O. Box 30005
Las Cruces, NM 88003-8005
Phone: (575) 649-0505

September 4, 2026

MEMORANDUM

TO: Director/Secretary Jeff M. Witte

FROM: Les Owen, Deputy Director – Hearing Officer

SUBJECT: Hearing Officer Report – RE: New Mexico Department of Agriculture Hearing on Proposed Repeal and Replacement of 21.17.27 NMAC, Japanese Beetle Exterior Quarantine.

BACKGROUND INFORMATION

The New Mexico Department of agriculture (NMDA) held two hearings regarding the proposed repeal and replacement of 21.17.27 NMAC, Japanese Beetle Exterior Quarantine. On Tuesday, August 4, 2026, at 9 a.m. a public video/telephonic and in-person hearing was held at Gerald Thomas Hall Auditorium (Rm 194), New Mexico State University, located at 940 College Drive in Las Cruces, NM 88003. On Thursday, August 6, 2026, at 9 a.m. an in-person hearing was held at the CNM Workforce Training Center located at 5600 Eagle Rock Ave, NE in Albuquerque, NM 87113.

The Rulemaking Notice was published in the New Mexico Register on June 23, 2026. Notice was provided to the Sunshine Portal, in the Santa Fe New Mexican (both English and Spanish), the Albuquerque Journal, The Las Cruces Sun News, and the NMDA website. Notification and the proposed rules were sent to the New Mexico Economic Development's Small Business Regulatory Advisory Commission and to Legislative Council Service. NMDA has not received findings from either. Notice of public hearings was also sent to pesticide licensed individuals and businesses impacted by the amendments; to the Pest Management Association, a state industry organization representing licensed pesticide applicators; and to the Household Consumer Product Association, a national industry organization representing pesticide manufacturers.

The hearing officer provides the following information for consideration by NMDA's director/secretary.

SUMMARY OF PRIMARY PROPOSED RULE CHANGES

The age of the Japanese Beetle Exterior Quarantine Rule and extensive amendments necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: additional terms added to the definition section to clarify regulatory requirements; scope of Japanese beetle quarantined areas expanded from 36 states to all U.S. states and specific Canadian provinces; scope of regulated articles expanded to include additional nursery stock items; compliance agreements (issued by NMDA) required for shipment of regulated articles into New Mexico; departments of agriculture in originating states provided options to petition NMDA for areawide or single-nursery compliance agreements; treatment requirements clarified for shipment of regulated articles into New Mexico; exceptions from compliance agreement requirements provided for small (under 10-inch container diameter) non-gramineous nursery stock; and requirement for small (under 10-inch container diameter) non-gramineous nursery stock to be treated and accompanied by a phytosanitary certificate for shipment into New Mexico.

Exhibit 1 provides background and technical information regarding the proposed repeal and replacement rule. Exhibit 2 presents a comparison of the existing and proposed rules in chart format. Exhibit 3 provides the proposed repeal and replace rule with changes integrated.

PUBLIC COMMENT

NMDA received one written public comment via email, and one stakeholder provided verbal comment during the August 6, 2026, hearing regarding the proposed repeal and replacement of 21.17.27 NMAC.

Mr. Dan Cassidy of Cassidy Farms submitted a written comment requesting variance of the rule for those collecting native plants in areas of New Mexico.

Oral comment in opposition to the rule made during the Albuquerque hearing by Mr. John Crowley, representing Monrovia Growers is summarized as follows:

Overall, he considered amendments to the new rule "heavy handed". Mr. Crowley expressed opposition to requiring growers to trap for Japanese beetle to prove they are not infested. He did not understand why the inclusion of specific woody gramineous plants-Pampas grass, maiden grass in restrictions of grasses. Mr. Crowley expressed concern regarding the treatment of plants just prior to enclosure in a closed shipping container (trailer) and requested some flexibility with nurseries not infested with Japanese beetle. He also stated that Monrovia would no longer be able to ship woody grasses from Oregon and only able to ship from California nurseries, and the rule would cut shipments of crape myrtles to New Mexico and loss of income to Monrovia.

HEARING OFFICER'S CONCLUSION

This memorandum serves as a summary of the hearings conducted on August 4 and 6, 2026. The information is presented for your review and to assist you in formulating a recommendation to the New Mexico State University Board of Regents regarding the adoption of the proposed repeal and replacement of the Japanese Beetle Exterior Quarantine Rule, Title 21, Chapter 17, Part 27 of the New Mexico Administrative Code.

Regarding the written comment received, the proposed rule is an exterior quarantine and does not directly apply to New Mexico plant collectors and plant nurseries.

Mr. Ryan Hiles responded to Mr. Crowley's comment during the hearing in Albuquerque explaining that there are options in the proposed rule that allow for clean nurseries to be excluded from the treatment requirements.

My recommendation is that the proposed repeal and replacement of 21.17.27 NMAC be adopted without changes.

Please contact me if you have any questions.

Exhibit 1

JAPANESE BEETLE EXTERIOR QUARANTINE CHANGE CONSIDERATION

NEW MEXICO DEPARTMENT OF AGRICULTURE POINT OF VIEW:

1) Japanese beetle continues to be introduced and established into western states, primary through the movement of infested nursery and turf stocks.
2) Movement from infested to uninfested areas is believed primarily due to:
   a) Inappropriate or lack of required pesticide applications by exporting nurseries
   b) Disregard for uninfested states' import quarantines
   c) Insufficient oversight of exported nursery stock by originating state departments of agriculture
   d) Loss of identity of nursery stock origin and treatment requirements (transshipped stock).
3) Japanese beetle has been introduced into New Mexico on several occasions through the import of non-compliant infested nursery and turf.
4) Periodic and isolated Japanese beetle introductions into New Mexico have been eradicated with the support of nurseries, universities, and city parks.
5) It is unlikely New Mexico will expend state funds to address eradication of widespread established Japanese beetle infestations (Utah $400,000 ongoing; Oregon $2.8 million ongoing).
6) New Mexico places a priority on preventing the introduction of JB into the state.
7) Japanese beetle establishment in the state will increase pesticide use to maintain aesthetics and viability of turf and landscape plants; profitability of specific agricultural crops.
8) USDA estimates annual US control costs of Japanese beetle exceeds $460 million.
9) New Mexico does not follow all elements of the Japanese Beetle Harmonization plan (not proved to be particularly effective in preventing spread).
10) Approximately 42 states have established populations of Japanese beetle in one or more locations (several states have ongoing eradication programs).
11) New Mexico is considered a high-risk state for introductions.

PRIMARY PROPOSED RULE ELEMENTS:

The department has elected to use the repeal and replace option for enacting rule changes to the Japanese Beetle Exterior Quarantine. Primary points in the proposed replacement Japanese Beetle Exterior Quarantine rule follows:

I. All nursery stock imported into New Mexico will be required to be shipped under either an Individual Compliance Agreement or Area Wide Compliance Agreement. Areawide Compliance Agreements, signed by origin state department of agriculture, on behalf of nurseries within a defined area, are available for those areas with extensive trapping programs with negative or incidental trapping results. Compliance Agreements state specific requirements that nurseries shall comply with prior to movement of stock into New Mexico. Primary requirements for each of three general types of compliance agreements follow:

A. **Individual exporting nurseries in Japanese beetle free locations** will have to demonstrate their Japanese beetle free status through annual on-site trapping programs, in collaboration with their state department of agriculture. Both gramineous and non-gramineous stock will be allowed without treatment. **Transshipment requirements will be addressed in each Single-Nursery Compliance Agreement. Approved transshipments may be allowed based on whether the origin is approved by NMDA, treatment, etc.**

B. **Multiple nurseries exporting regulated nursery stock originating from a Japanese beetle-free county, state, or area** may ship under a single Areawide Compliance Agreement, requested by the origin state department of agriculture. Status of Japanese beetle in a designated defined area shall be demonstrated through the establishment of an extensive annual trapping program approved by NMDA. Treatment requirements and ability to ship gramineous stock shall be dependent on trapping results and eradication efforts, as addressed in Area Wide Compliance Agreement requirements. The agreement will also address requirements to keep non-gramineous stock weed-free during the entire flight period, and ability to transship nursery stock. **Transshipment requirements will be addressed on an individual Areawide Compliance Agreement basis. Approved transshipments may be allowed based on whether the origin is approved by NMDA, treatment, etc.**

C. Individual nurseries exporting nongramineous nursery stock from a known Japanese beetle infested location or from areas where Japanese beetle status is unknown will be required to ship in compliance with Single-Nursery Compliance Agreement requirements. Requirements will include properly timed treatments and may include an NMDA-approved annual trapping program in the area to determine first Japanese beetle emergence to ensure proper treatment timing. Oversight of insecticide applications by origin state department of agriculture is required. Non-gramineous stock to be kept weed-free during the entire Japanese beetle flight period. Gramineous stock will be prohibited from entry under this option, regardless of treatment. See option D for gramineous stock grown in exclusionary facilities.

D. Individual nurseries exporting nursery stock including gramineous plants maintained in certified exclusionary facilities in infested location or areas where Japanese beetle status is unknown will be required to ship in compliance with Single-Nursery Compliance Agreement requirements. Requirements will include stock being maintained for a minimum of 12 months in premises certified by origin state's department of agriculture as meeting requirements to exclude Japanese beetle. Inspections shall be made annually by the origin state's department of agriculture. Requirements for insecticide treatments will be based on current and previous Japanese beetle trapping data and shall be addressed within the compliance agreement. Treatment will be required for gramineous plants imported under this option. Oversight of insecticide applications by origin state department of agriculture is required.

II. Regulated nursery stock imported into New Mexico under a compliance agreement requiring chemical treatment must adhere to the following requirements:

A. Active ingredients must be approved by NMDA.

B. Applications must be applied to kill hatching Japanese beetle larvae prior to the flight season.

C. Nursery stock originating in Japanese beetle infested areas and treated exclusively during or following flight period is prohibited from entering New Mexico.

D. Method of application must be approved by NMDA and may include surface applications and drench treatments, depending on propagation method (i.e., field grown vs. containerized).

E. Treatments must be overseen by the origin state department of agriculture.

III. Nongramineous plants growing in containers that have a horizontal diameter less than 78.5 square inches (i.e. 10 inch diameter pot) or shipped as "ball and burlap" with rootballs less than 10 inches in diameter can be shipped without a compliance agreement if they have been treated to destroy Japanese beetle infestations and are accompanied by a phytosanitary certificate stating timing and method of application and active ingredient.

IV. Houseplants maintained in the home and not for sale are exempt from requirements in this rule.

Exhibit 2

COMPARISON BETWEEN CURRENT JAPANESE BEETLE EXTERIOR QUARANTINE RULE (21.17.27 NMAC) AND PROPOSED RULE CHANGES

Section (as updated)	Current 2011 Japanese Beetle Exterior Quarantine	Proposed Japanese Beetle Exterior Quarantine	Key Difference / Impact
21.17.27.5 Effective Date	June 30, 2011	September 1, 2027	Effective date updated
21.17.27.6 Objective	Short statement about reducing the risk of introducing JB into NM	Clear and in-depth explanation of western-state spread of JB, nursery stock pathway, treatment timing issues, transshipment risks, compliance agreements and phytosanitary certificate requirements.	Objectives are much broader and offer a clear direction
21.17.27.7 Definitions	Few basic definitions for existing rule	**Definitions added:** 1) Compliance Agreement 2)Gramineous 3) Infested includes states w/unknown JB population 4) Nongramineous 5)Nursery 6) Transship **Definitions revised:** 1) Free of soil expanded 2) Phytosanitary Certificate 3) Infestation clarified	Added and revised definitions for clarity to be in line with current nursery shipping, production and sales practices and goals
21.17.27.8(B) Areas Under Quarantine	Specific list of certain states based on vague U.S. Harmonization Plan	All U.S. states, D.C., and several Canadian provinces	Quarantine area expanded. NM will not be incorporating JB Harm. Plan in this new rule
21.17.27.8(C) Additional Areas	Areas where beetles were found or believed to occur	Specifies department discretion; adds areas for quarantine whose JB status has not been determined (FL, LA, etc.)	Current version is broader. NM will not be incorporating JB Harm. Plan in this new rule
21.17.27.8(D) Regulated Articles	Grass and grass sod, regardless of container size, and plants over 12'' and cubic area thresholds	All gramineous plants and Nongramineous plants (all other plants) with roots and soil or soilless medium, Designated size of container has been deleted and moved to exceptions section; revised catch-all language to be more inclusive of materials which may present risk	Current version covers most plants in this section, specific regulated articles added, more comprehensive of risk
21.17.27.9(A) Shipping/ Restrictions	Entry allowed with phytosanitary certificate or compliance agreement under listed options and within JB Harmonization Plan Framework	Entry prohibited without current signed compliance agreement; shipment must include compliance agreement + phytosanitary certificate (when required)	Stricter documentation requirements; compliance agreement always required, phytosanitary certificate required if stipulated in compliance agreement.
21.17.27.9(B)	Certificates/compliance agreements attached to outside of container or shipping documents	Shipping docs, phytosanitary certificates, and compliance agreements must be available by NM nursery for 12 months for NMDA	Time period for shipping records and approved shipping docs stated
21.17.27.9(C)	Director may make exceptions, modifications, or additions	Transshipped regulated articles prohibited unless from approved location or compliant under agreement and trapping data	Current section shifts to transshipment control and traceability; department ability to make exceptions moved to 21.17.27.12 Exceptions

21.17.27.10 Compliance Agreement Options and Requirements	Not present; section number previously "Exceptions"	Listing of options available to ship regulated articles into NM	New; creates compliance agreement options and requirements
21.17.27.10(A)	Not present	Single-Nursery Japanese Beetle Free Compliance Agreement	New; outlines requirements for single-nursery agreement based on negative trapping data at nursery location
21.17.27.10(B)	Not present	Areawide-Nursery Japanese Beetle Free Compliance Agreement	New; outlines requirements for areawide-nursery agreement based on areawide trapping data
21.17.27.10(C)	Not present	Exclusionary Facility Compliance Agreement	New; outlines requirements for single-nursery agreement based on facility's ability to exclude Japanese beetle
21.17.27.10(D)	Not present	Infested Area Single-Nursery Compliance Agreement using a approved treatment	New; outlines requirements for single-nursery agreement based on treatment
21.17.27.11 Chemical Treatment Requirements	Not present as a separate section; section number previously "Disposition of Violations;" the language addressing treatment refers to the JB Harmonization Plan	Chemical Treatment Requirements Department-approved active ingredients/methods, timing rules, no entry for stock treated only during/following flight period, certificate declaration, compliance agreement number	New; major new operational/treatment requirements. Treatments approved by the department, not dictated under JB Harmonization Plan
21.17.27.12 Exceptions	None	Houseplants not for sale are exempt; smaller nongramineous plants allowed without compliance agreement if treated/certified; small soil samples exempt under certain conditions; USACE soil samples exempt; allows department-granted exceptions	Current document creates multiple explicit exceptions
21.17.27.13 Disposition of Violations	Failure to comply is violation; board may direct disposal/removal/other mitigation (Formerly 21.17.27.11)	Clarifies quarantine, expulsion/destruction, owner/agent cost responsibility, reimbursement, invoice/payment deadline, and legal action mitigation measures; language directly from pecan nut exterior quarantine	Enforcement provisions expanded considerably, clarifies financial responsibility
21.17.27.14 Fees	Not present	Special inspections/requested services may be subject to fees under 21.1.2 NMAC	New cost recovery provision
21.17.27.15 Liability Disclaimer	Not present as section 15	Board disclaims liability for costs incurred from inspection or compliance	Liability disclaimer moved from 12 to 15 and reworded
21.17.27.15 Liability Disclaimer	Formerly 21.17.27.12		New section
21.17.27.16	Not present	Clarifies that regulated articles are also subject to provisions of other laws etc. that apply	New legal clarification
History oof 21.17.27 NMAC	Not Present	States 2011 rule was repealed and replaced effective 9/01/2027	New section; history added

Exhibit 3

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 17 PEST, DISEASE, AND WEED CONTROL
PART 27 JAPANESE BEETLE EXTERIOR QUARANTINE

21.17.27.1 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
[21.17.27.1 NMAC - Rp, 21.17.27.1 NMAC, 9/01/2027]

21.17.27.2 SCOPE: Part 27 shall apply to all persons transporting regulated articles into and through New Mexico.
[21.17.27.1 NMAC - Rp, 21.17.27.1 NMAC, 9/01/2027]

21.17.27.3 STATUTORY AUTHORITY: Granted to the board of regents of New Mexico state university under the Pest Control Act, Chapter 76, Article 6, Sections 1 through 9 NMSA 1978 compilations.
[21.17.27.1 NMAC - Rp, 21.17.27.1 NMAC, 9/01/2027]

21.17.27.4 DURATION: Permanent.
[21.17.27.1 NMAC - Rp, 21.17.27.1 NMAC, 9/01/2027]

21.17.27.5 EFFECTIVE DATE: September 1,2027 unless a later date is cited at the end of a section.
[21.17.27.1 NMAC - Rp, 21.17.27.1 NMAC, 9/01/2027]

21.17.27.6 OBJECTIVE: Japanese beetle continues to be introduced into previously uninfested western states, primarily through the shipment of infested nursery stock originating from infested areas. Improper insecticide applications (timing, rate etc.), disregard of destination states' quarantines, and transshipment of nursery stock all contribute to Japanese beetle spread. The objective of Part 27, Chapter 17 is to reduce the risk of introducing Japanese beetle into New Mexico by requiring compliance agreements and state phytosanitary certificates associated with nursery stock shipments into New Mexico. Note that New Mexico does not recognize all elements of the Japanese beetle harmonization plan.
[21.17.27.1 NMAC - Rp, 21.17.27.1 NMAC, 9/01/2027]

21.17.27.7 DEFINITIONS:

A. **"Board"** means the board of regents of New Mexico state university or any officer or employee to whom authority to act in their stead has been or hereafter may be delegated.

B. **"Compliance agreement"** means a written and signed contract issued by the department to the origin state department of agriculture, exporting nursery and other parties. Compliance agreements shall state import requirements, including phytosanitary certificate declarations, insecticide treatment requirements, and trapping protocols that will support the movement of regulated articles from quarantined areas to New Mexico.

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

D. **"Director"** means the director of New Mexico department of agriculture.

E. **"Free of soil"** means absence of soil or planting media in an amount that may harbor Japanese beetle as determined by the department.

F. **"Gramineous"** means plants belonging to the poales order that display long, narrow (linear), grass-like leaves and grow with roots embedded in or in contact with soil or soilless media including ornamental grasses, sedges, rushes, and grass sod. For the purpose of this quarantine, gramineous excludes soilless plugs.

G. "**Infested"** means the presence of Japanese beetle or circumstances that indicate Japanese beetle may be present or the actual status of the presence of Japanese beetle is not determinable as determined by the department.

H. **"Nongramineous"** means any plant that is not gramineous, as defined in 21.17.27.7 NMAC.

I. **"Nursery"** means any location in which nursery stock is propagated, cultivated or maintained including sod farms.

J. **"Phytosanitary Certificate"** an official document or equivalent issued by the origin state's department of agriculture affirming compliance with quarantine rule or compliance agreement requirements.

K. **"Transship**" means to ship nursery stock previously maintained or growing at a location other than the nursery exporting to New Mexico within the previous 12 months.

[21.17.27.7 NMAC - Rp, 21.17.27.7 NMAC, 9/01/2027]

21.17.27.8 JAPANESE BEETLE EXTERIOR QUARANTINE:

A. **Pest:** Japanese beetle, *Popillia japonica*.

B. **Areas under quarantine:** All states of the United States including the District of Columbia; and Canadian provinces of New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island and Quebec.

C. Any areas not listed in Subsection B of 21.17.27.8 NMAC where Japanese beetle has been found or areas where Japanese beetle is believed by the department to occur or their status has not been determined shall be included as an area under quarantine.

D. **Regulated articles:**

(1) Japanese beetle in any living state of development.

(2) All gramineous plants.

(3) Nongramineous plants with roots and soil or soilless medium.

(4) Bulbs, corms, tubers, and rhizomes, unless free of soil.

(5) Unsterilized soil or soilless media.

(6) Any other articles not covered by this subsection are regulated articles when determined by the department that they present a risk of introducing Japanese beetle into New Mexico.

[21.17.27.8 NMAC - Rp, 21.17.27.8 NMAC, 9/01/2027]

21.17.27.9 SHIPPING RESTRICTIONS

A. All regulated articles are prohibited entry into New Mexico from areas under quarantine without a current and signed compliance agreement. All shipments shall be accompanied by a copy of a valid compliance agreement and a phytosanitary certificate as stipulated in the compliance agreement.

B. Shipping documents, phytosanitary certificates, and compliance agreements associated with regulated articles shall be retained by the New Mexico nursery for at least 12 months after delivery. Documents shall be made available to the department upon request.

C. Transhipped regulated articles are prohibited entry into New Mexico unless it originates from a department approved nursery location or otherwise complies with requirements within an approved compliance agreement.

[21.17.27.9 NMAC - Rp, 21.17.27.9 NMAC, 9/01/2027]

21.17.27.10 COMPLIANCE AGREEMENT OPTIONS AND REQUIREMENTS: Compliance agreements may allow for shipments of regulated articles based on one of the following options:

A. **Single-Nursery Japanese Beetle Free Compliance Agreement:** Regulated articles including gramineous plants originating in locations not infested based on a department approved trapping program. Traps shall be monitored by the origin state department of agriculture, or a department approved third party. Trapping shall have been conducted during the entire previous Japanese beetle flight season at each growing location. Transshipment requirements shall be addressed in each compliance agreement. Transshipments may be allowed from a department approved location. Other requirements as stated by the department apply.

B. **Areawide-Nursery Japanese Beetle Free Compliance Agreement:** Regulated articles originating in an area, county or state not infested based on a department approved extensive and annual areawide trapping program. Traps shall be monitored by the origin state department of agriculture, or a department approved third party. Trapping shall have been conducted during the entire previous Japanese beetle flight season throughout the area covered under the compliance agreement and in proximity to exporting nurseries. Transshipments, shipments of gramineous plants, prevention measures and treatment requirements shall be addressed in each compliance agreement. Requirements for insecticide treatments shall be based on current and previous Japanese beetle trapping data and shall be addressed within the compliance agreement and in accordance with 21.17.27.11 NMAC. Transshipments may be allowed from a department approved location. Shipment of sod into New Mexico is prohibited under this agreement. Other requirements as stated by the department apply.

C. Exclusionary Facility Compliance Agreement: Regulated articles including gramineous plants grown in certified Japanese beetle exclusion greenhouses located in an infested area or in an area in which the status of Japanese beetle is unknown. Greenhouses to be certified by origin state's department of agriculture as meeting requirements to exclude Japanese beetle. Inspections shall be made annually by the origin state's department of agriculture and inspection reports shall be made available to the department. Compliance agreements issued under this option shall cover only individual nurseries. Transshipment, shipments of gramineous plants, prevention measures and treatment requirements shall be addressed in each compliance agreement. Requirements for insecticide treatments shall be based on current and previous Japanese beetle trapping data and shall be addressed within the compliance agreement and in accordance with 21.17.27.11 NMAC. Transshipments may be allowed from a department approved location. Shipment of sod into New Mexico is prohibited under this agreement. Other requirements as stated by the department apply.

D. Infested Area Single-Nursery Compliance Agreement: Regulated articles grown in field or in a greenhouse not certified for exclusion in infested locations or in a location in which the status of Japanese beetle is unknown. All regulated articles shall be treated to destroy Japanese beetle infestations in accordance with 21.17.27.11 NMAC. Transshipments, shipments of gramineous plants, prevention measures and treatment requirements shall be addressed in each compliance agreement. Requirements shall include properly timed treatments and a department approved method (e.g., trapping program in the area, degree-day model validated for the area) for determination of first Japanese beetle emergence to ensure proper treatment timing. Compliance agreements issued under this option shall cover only individual nurseries. Shipment of gramineous plants including sod into New Mexico is prohibited under this agreement. Other requirements as stated by the department apply.
[21.17.27.10 NMAC - N, 9/01/2027]

21.17.27.11 CHEMICAL TREATMENT REQUIREMENTS: Treatment of regulated articles as addressed in rule or compliance agreements shall be carried out according to the following requirements.

A. Active ingredients and method of application shall be approved by the department prior to application.

B. Applications shall be timed to ensure all hatching Japanese beetle larvae are eradicated. Timing shall be based on a department approved method (e.g., trapping program in the area, degree-day model validated for the area).

C. Nursery stock treated solely during or following flight period is prohibited from entering New Mexico.

D. Regulated stock requiring treatment must be accompanied by a phytosanitary certificate listing treatment active ingredient and method with the following additional declaration. "The rooted plants were treated to control *Popillia japonica* using a method approved by New Mexico Department of Agriculture."

E. Regulated stock requiring treatment and covered under a compliance agreement must list the compliance agreement number in the phytosanitary certificate.
[21.17.27.1 NMAC - N, 9/01/2027]

21.17.27.12 EXCEPTIONS:

A. Houseplants maintained in the home and not for sale are exempt.

B. Nongramineous plants with roots and soil or soilless medium attached and growing in containers that have a horizontal diameter less than 78.5 square inches (i.e. 10 inch diameter pot) or shipped as "ball and burlap" with rootballs less than 10 inches in diameter can be shipped without a compliance agreement if they have been treated to destroy Japanese beetle infestations and are accompanied by a phytosanitary certificate. Treatments shall be carried out in accordance with 21.17.27.11 NMAC.

C. Soil samples of one pound or less which are packaged so that no soil will be spilled in transit are exempt.

D. Soil samples of any size collected and shipped to any United States army corps of engineers soil laboratory are exempt.

E. Exceptions may be granted or limited upon departmental review.
[21.17.27.12 NMAC - Rp, 21.17.27.10 NMAC, 9/01/2027]

21.17.27.13 DISPOSITION OF VIOLATIONS: Failure to comply with the Japanese beetle quarantine shall be subject to penalties as provided under Chapter 76, Article 6, Section 9, NMSA 1978. Any non-compliant regulated article will be subject to immediate quarantine and expulsion from the state or destruction under

parameters set forth by the department, or other method of disposition as directed by the department that serves the best interest of the state. All mitigation methods including transportation, treatment and disposal of non-compliant regulated articles will be at the expense of the owners, agents or both and performed under the direction of the department. If necessary for the department to incur any cost associated with the disposition of non-compliant regulated articles, the owner, agents or both shall reimburse the department for all costs, including attorney's fees and cost, incurred by the department. Reimbursement to the department is required within 30 days after notification via issuance of invoice requesting payment. If payment is not received within 30 days of notification, the department shall initiate legal action to collect or recuperate actual cost.
[21.17.27.13 NMAC - Rp, 21.17.27.11 NMAC, 9/01/2027]

21.17.27.14 FEES: Special inspections or other requested services provided by the department will be subject to fees as authorized under Sections 1 through 10 of 21.1.2 NMAC
[21.17.27.14 NMAC – N, 9/01/2027]

21.17.27.15 LIABILITY DISCLAIMER: The board disclaims liability for any costs incurred from inspection or compliance with the provisions of this rule.
[21.17.27.15 NMAC - Rp, 21.17.27.12 NMAC, 9/01/2027]

21.12.27.16 ADDITIONAL LAWS AND REGULATIONS: All regulated articles are further subject to the provisions of any other law, regulation, or regulatory order of the state of New Mexico, the United States or both now in effect or which may hereafter be promulgated.
[21.17.27.16 NMAC - N, 9/01/2027]

History of 21.17.27 NMAC:
21.17.27 NMAC - Japanese Beetle Exterior Quarantine, filed 6/30/2011 was repealed and replaced by 21.17.27 NMAC - Japanese Beetle Exterior Quarantine, effective 9/01/2027.

Hearing Transcript - August 4, 2026

New Mexico Department of Agriculture

Rulemaking Public Hearing

Moderated by Les Owen, Deputy Director NMDA

Tuesday, August 4, 2026

9:05 a.m.

Gerald Thomas Hall Auditorium

940 College Drive, Room 194

Las Cruces, NM 88003

Reported by: Ryan Auten

JOB NO: 8263995

A P P E A R A N C E S

List of Attendees:

Les Owen, Deputy Director NMDA

Stephen Baca, Assistant Director - Agricultural Environmental Services

Ryan Hiles, Assistant Director - Agricultural Environmental Services

Tony Marquez, Director of Information Technology - New Mexico Department of Agriculture

Teri Cates, Owner TLC Pest Control, VP - New Mexico Pest Management Association

C. Benevidez, Attendee (by videoconference)

Courtenay, Attendee (by videoconference)

Kyleigh Serna, Attendee (by videoconference)

Micah Meyer, Attendee (by videoconference)

N. Busse, Attendee (by videoconference)

T. Thompson, Attendee (by videoconference)

Tyler Leslie, Rehm's Nursery (by videoconference)

Veronica, Attendee (by videoconference)

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 following rules: Japanese Beetle Exterior Quarantine, 21.27.27 [sic] of the New Mexico Administrative Code; Control of Wood Destroying Pests, 21.17.51 of the New Mexico Administrative Code; Continuing Education Units for Pesticide Applicators, 21.17.53 of the New Mexico Administrative Code; Restricted-Use Pesticides, 21.17.56 of the New Mexico Administrative Code; and M-44 Capsules in the Livestock Protection Collar, 21.17.57 of the New Mexico Administrative Code. Additionally, this hearing will address the proposed amendments to the Pesticides Rule 21.17.50 of the New Mexico Administrative Code.

My name is Les Owen. I am the deputy director for 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 rules and procedural steps were made available as you walked in.

The day and date is Tuesday, August 4, 2026, and the time is approximately 9:05 a.m. This

hearing is being held in person and virtually via internet link in New Mexico State University's Gerald Thomas Hall Auditorium, located at 940 College Drive, Las Cruces, New Mexico. This is the published date, time, and location for this hearing.

In accordance to state law, public notices for this hearing were published as follows: The New Mexico Register published June 23, 2026; Las Cruces Sun News, June 23, 2026; the Santa Fe, New Mexican, June 23, 2026, in English and Spanish; and the Albuquerque Journal, June 23, 2026. Notices were also published -- were also posted on New Mexico Department of Agriculture's website, New Mexico Sunshine Portal, and made available at New Mexico Department of Agriculture's main office in Las Cruces.

Additionally, notifications were sent to the New Mexico Economic Development Small Business Regulatory Advisory Commission for comment and to Legislative Counsel Service. Copies of the proposed replacement rules and amended rule were made available on New Mexico Department of Agriculture's website.

This hearing is being recorded and either a transcript of today's hearing or the recording will be available from New Mexico Department of Agriculture's website. Following a summary of

major points within each proposed six rules, the public will be provided with an opportunity to permit -- to present testimony. Testimony should be relevant to the proposed rules or amendments.

The first of six rules addressed in this hearing is the proposed repeal and replacement of the Japanese Beetle Exterior Quarantine Rule. Mr. Hiles will now provide a summary of proposed primary points included in the rule.

MR. HILES: Good morning. I am Ryan Hiles, an assistant division director with the New Mexico Department of Agriculture. The Japanese Beetle Exterior Quarantine Rule, 21.17.27 of the New Mexico Administrative Code, was promulgated under the authority of the Pest Control Act 76.6.1 of New Mexico Statutes to address risks associated with importing Japanese beetle into New Mexico through the importation of plant/nursery stock.

Extensive proposed amendments to the Japanese beetle exterior quarantine rule necessitated the repeal and replacement of the existing rule. Major points addressed include additional definitions for clarification purposes, requirement for nurseries exporting plants to New Mexico to comply with restrictions outlined in New Mexico Department of

Agriculture-issued compliance agreement, expansion of quarantined areas to include all U.S. states and specific Canadian provinces, requirements for smaller pots containing non-gramineous nursery stock to be treated prior to export to New Mexico, and provide states a pathway to include multiple nurseries to be covered under one compliance agreement.

MR. OWEN: Thank you, Mr. Hiles.

As of August 1, 2026, the New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Japanese Beetle Exterior Quarantine.

For those of you in the room, please raise your hand and wait until I call on you. For those participating through Zoom, please use the "Raise Hand" feature, and you will be -- you will then be unmuted. Begin your comment by stating your name and affiliation for the record. Your comment should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

Is there anyone else wishing to comment?

Seeing none, I will close the public

oral comment period for the proposed Japanese Beetle Exterior Quarantine Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website.

The second rule addressed during this hearing is the proposed repeal and replacement of the Control of Wood Destroying Pests rule. Mr. Baca will present a summary of major points contained in this proposed replacement rule.

MR. BACA: Good morning. I am Steve Baca, an assistant division director with New Mexico Department of Agriculture. The Control of Wood Destroying Pests Rule, 21.17.51 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.4.1-39 of

New Mexico Statutes to address regulatory requirements related to pesticide applicators involved in the control of wood-destroying pests.

Although amendments to the existing Control of Wood Destroying Pests Rule are few, format updates necessitated the repeal and replacement of the existing rule. Major points addressed in the proposed rule include updating, noting that not all termiticides are restricted-use products, alignment of terms with those used in the Pesticide Control Act, and clarification of license types that require supervision while applying pesticide -- insecticides.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Control of Wood Destroying Pests Rule.

For those of you in the room, please raise your hand and wait until I call on you. For those participating through Zoom, please use the raise your hand feature, and you will be unmuted. Begin your comment by stating your name and affiliation for the record. Your comment should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

Is there anyone else wishing to comment?

Seeing none, I will close the -- the public oral comment period for the proposed Wood Destroying Pests Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website.

The third rule addressed in this hearing is the proposed repeal and replacement of the Continuing Education Units for Pesticide Applicators Rule. Mr. Baca will present a summary of major points contained in this proposed replacement rule.

MR. BACA: I'm Steve Baca, an assistant

division director with the New Mexico Department of Agriculture. The Continuing Education Units for Pesticide Applicators Rule, 21.17.53 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.1.4 1-39 [sic] of the New Mexico Statutes to address Environmental Protection Agency-required updates relevant to continuing education requirements for pesticide applicators.

Extensive proposed changes and format updates necessitated a repeal and replacement process for this rule. Major points proposed in the replacement rule include definition updates, clarification of continuing education units approval process, addition of Environmental Protection Agency mandated re-certification requirements, and addition of new environmental protection agency pesticide applicator categories.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed continuing education units for pesticide applicators rule.

For those of you in the room, please

raise your hand and wait until I call on you. For those participating through Zoom, please use the raise your hand feature, and you will be unmuted. Begin your comment by stating your name and affiliation for the record. Your comments should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments. Yes.

MS. CATES: [Unintelligible response.]

MR. OWEN: Great. Thank you.

Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Continuing Education Units for Pesticide Applicators Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be

available from New Mexico Department of Agriculture's website.

Oh.

UNIDENTIFIED SPEAKER: Now if you use this microphone, he should be able to hear you.

MS. CATES: My name is Teri Cates. I am the owner-operator of TLC Pest Control, as well as the current vice president of New Mexico Pest Management Association and the State Policy Affairs Representative for the industry -- the pest control industry in the state of New Mexico. I'm here today to support the rule change, as it is much needed and long overdue.

MR. OWEN: Great. Thank you.

The fourth rule addressed in this hearing is the proposed repeal and replacement of the Restricted-Use Pesticides Rule. Mr. Baca will present a summary of major points contained in the proposed rule replacement.

MR. BACA: I'm Steve Baca, an assistant division director with New Mexico Department of Agriculture. The Restricted-Use Pesticides Rule, 21.17.56 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.4.1-39 of New Mexico Statutes to

address regulations relevant to the purchase, sale, use, and record retention of restricted-use pesticides.

Although proposed amendments to the existing Restricted-Use Pesticide Rule are few, format updates necessitated the repeal and replacement of the current rule. The major point addressed in the proposed rule is a revision of pesticide records requirements to ensure compliance with Environmental Protection Agency mandates.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed Restricted-Use Pesticides Rule.

For those of you in the room, please raise your hand and wait till I call on you. For those participating through Zoom, please use the "Raise Hand" feature, and you will be unmuted. Begin your comments by stating your name and affiliation for the record. Your comments should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

Okay. Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Restricted-Use Pesticides Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website.

The fifth rule addressed in this hearing is the proposed repeal and replacement of the M-44 and the Livestock Protection Collar Rule. Mr. Baca will present a summary of major points contained in the proposed replacement rule.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture. The M-44 and the Livestock Protection -- Protection Collar Rule, 21.17.57 of the

New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.4.1-39 of New Mexico Statutes to address regulations relevant to the purchase, sale, use, accident reporting, and record retention of M-44s and livestock protection collars.

Although proposed amendments to the existing M-44 and the Livestock Protection Collar Rule are few, format updates necessitated the repeal and replacement of the existing rule. Major points addressed in the proposed replacement rule include clarification of prospective license -- licensee qualifications, updating of records requirements, and harmonization of rule language with product labels.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed M-44 and Livestock Protection Collar Rule.

For those of you in the room, please raise your hand and wait until I call on you. For those participating through Zoom, please use the "Raise Hand" feature, and you will be unmuted. Begin your comment by stating your name and affiliation for

the record. Your comments should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed M-44 and -- and the Livestock Protection Collar Rule. Written comments will be accept until -- accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website.

The last rule addressed in this hearing are proposed amendments to the Pesticides Rule. Mr. Baca will present a summary of major points contained in the proposed rule amendments.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture. The Pesticides Rule, 21.17.50 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.4.1-39 of New Mexico Statutes to address regulations relevant to the sale of pesticides, purchase, use, licensing, and record requirements by commercial pesticide applicators and individuals using restricted-use pesticides, and identifying pesticide applicator licensing categories.

The majority of proposed amendments to the Pesticides Rule are Environmental Protection Agency-mandated updates. These updates include changes in examination requirements, record requirement enhancements, new pesticide applicator categories, and minimum age establishment for applicators.

Additionally, proposed amendments include general language cleanup, increase in minimal insurance requirements, definition updates, and clarification to operators' training permits.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received no written

comments. We'll now open the floor for comments directed at the proposed Pesticides Rule.

For those of you in the room, please raise your hand and I will -- and wait until I call on you. For those participating through Zoom, please use the "Raise Hand" feature, and you will be unmuted. Begin your comment by stating your name and affiliation for the record. Your comments should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

MS. CATES: My name is Teri Cates. I'm the owner-operator at TLC Pest Control, and I'm also the vice president of New Mexico Pest Management Association and the State Policy Affairs Representative for the industry. I am here on behalf of myself and my association to support all the rule changes, as they are much needed and long overdue.

MR. OWEN: Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Pesticides Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at

the main Las Cruces office.

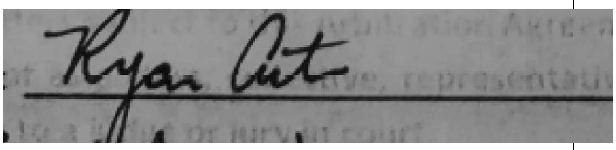
All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be available from the New Mexico Department of Agriculture's website.

The time is 9:21 a.m. I will now close this public hearing that addressed amendments to or the repeal and replacement of six New Mexico Department of Agriculture pesticide or plant pest-related rules. Thank you.

(Whereupon, at 9:21 a.m., the proceeding was concluded.)

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.



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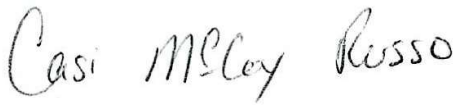

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Hearing Transcript - August 6, 2026

New Mexico Department of Agriculture

Pesticides Rulemaking Hearing

Moderated by Les Owen, Deputy Director

Thursday, August 6, 2026

9:00 a.m.

Central New Mexico Community College Workforce Training Center

5600 Eagle Rock Avenue Northeast

Albuquerque, NM 87113

Reported by: James Cogswell

JOB NO: 8264010

A P P E A R A N C E S

List of Attendees:

Les Owen, Deputy Director, New Mexico Department of Agriculture

Ryan Hiles, Assistant Division Director, New Mexico Department of Agriculture

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

Tim Darden, New Mexico Department of Agriculture

Nathan Abrahamson, New Mexico Department of Agriculture

Maria Rocha-Hall, New Mexico Department of Agriculture

Candie Sweetser, New Mexico Department of Agriculture

Alan Feuer, Attendee

Kyleigh Serna, Attendee

Dixie Mussaw, Attendee

Chris Benavidez, Attendee

John Crowley, Attendee

Bradley Lewis, New Mexico Department of Agriculture

P R O C E E D I N G S

MR. OWEN: We're ready? Okay. Good morning. At this time, we will start the hearing that addresses the proposed repeal and replacement of the following rules: Japanese Beetle Exterior Quarantine, 21.27.27 of the New Mexico Administrative Code. Control of Wood Destroying Pest, 21.17.51 of the New Mexico Administrative Code.

Continuing Education Units for Pesticide Applicators, 21.17.53 of the New Mexico Administrative Code. Restricted-Use Pesticides, 21.17.56 of the New Mexico Administrative Code. And M-44 Capsules and the Livestock Protection Collar, 21.17.57 of the New Mexico Administrative Code.

Additionally, this hearing will address the proposed amendments to the Pesticides Rule 21.17.50 of the New Mexico Administrative Code. My name is Les Owen. I am the deputy director for 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 rules and procedural steps were made available as you walked in. The day and date is Thursday, August 6th, and the

time is approximately 9:05 a.m.

This hearing is being held in person at the CNM Workforce Training Center located at 5600 Eagle Rock Avenue, Albuquerque, New Mexico. This is the published date, time, and location for this hearing.

In accordance to state law, public notices for this hearing were published as follows: The New Mexico Register, published June 23, 2026, Las Cruces Sun-News, June 23, 2026, The Santa Fe New Mexican, June 23, 2026, in English and Spanish, and the Albuquerque Journal, June 23, 2026.

Notices were also posted at the New Mexico Department of Agriculture's website and the New Mexico Sunshine Portal and made available at New Mexico Department of Agriculture's main office in Las Cruces.

Additionally, notifications were sent to the New Mexico Economic Development's Small Business Regulatory Advisory Commission for comment and to Legislative Counsel Service. Copies of the proposed replacement rules and amended rule were made available on New Mexico Department of Agriculture's website.

Written comments will be accepted until

5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office. Following a summary of major points within each proposed six rules, the public will be provided with an opportunity to present testimony.

Testimony should be relevant to the proposed rules or amendments. The first of six rules addressed in this hearing is the proposed repeal and replacement of the Japanese Beetle Exterior Quarantine Rule. Mr. Hiles will now provide a summary of proposed primary points included in the rule.

MR. HILES: Good morning. I am Ryan Hiles, an assistant division director with the New Mexico Department of Agriculture.

The Japanese Beetle Exterior Quarantine Rule 21.17.27 of the New Mexico Administrative Code was promulgated under the authority of the Pest Control Act 76.6.1 of New Mexico statutes to address risks associated with importing Japanese beetle into New Mexico through the importation of plant nursery stock.

Extensive proposed amendments to the Japanese Beetle Exterior Quarantine Rule necessitated the repeal and replacement of the existing rule.

Major points addressed include: additional definitions for clarification purposes.

Requirements for nurseries exporting plants to New Mexico to comply with the restrictions outlined in New Mexico Department of Agriculture issued compliance agreement. Expansion of quarantined areas to include all U.S. States and specific Canadian provinces.

Requirements for smaller pots containing non-gramineous nursery stock to be treated prior to export to New Mexico. And provide states a pathway to include multiple nurseries to be covered under one compliance agreement.

MR. OWEN: Thank you, Mr. Hiles.

As of August 6, 2026, New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Japanese Beetle Exterior Quarantine. Please raise your hand and wait until I call on you. Begin your comment by stating your name and affiliation for the record.

Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments. We have a microphone up here for anybody that would like to comment.

Yes, sir. If you'll please just come up to this microphone so that we can capture it.

MR. CROWLEY: Thank you for listening. Am I on? Okay. Thank you for listening. I'm John Crowley, and I'm a sales rep for Monrovia Growers. You -- I know this is a little heavy-handed as any agriculture department or any government entity is. You can't, like, say, "Oh, you get a by."

But as I've expressed in emails to the NMDA, it's hard to prove that ghosts don't exist. Monrovia Growers and many other growers have areas that are clean. And the way the rules or regulations are proposed, it's almost like go out there and trap.

And we don't want -- we really don't want to trap because it -- the traps you have us using in Oregon -- they do have us using those in Oregon already. That's a requirement. And we're compliant with that. That's easily done. That Oregon nursery is in an agricultural area. It isn't in a residential area. So that's easily done.

The -- none of us here, nobody in this room wants to bring Japanese beetles in. But the gramineous plants that you're requiring, those are basically woody landscape ornamentals. I can think of, like, pampus grass, maiden grass. And I can't

understand.

Maybe that's the USDA recommendation instead of -- and NMDA is just using that or -- or piggybacking with that. I don't know. But gramineous plants, I don't understand how that can be. I understand turf and then we're getting into gramineous, bluegrass, Kentucky Bluegrass. I get that.

But when it comes to woody ornamentals, which are a lot of ornamental grasses, you're really cutting down on a plant that people use here as a standalone, looks great in the gravel, not a heavy water user, drought tolerant, looks great. So I think that we -- I'd like to see us revisit that.

Also, the size container, you had mentioned be treated in there, some plants being treated. I don't know what that all entails, whether you're going to require us to start treating them with, like, Talstar or something prior to shipping. That's a little scary because you don't want to hit it with a chemical.

Then put it on the back of the truck, seal the door, and let it ride for six days with no sunshine. Then open it up and see what you got. You can understand that. So please work with us on that

and let us know. We're spending a lot of money up in Oregon to treat for them. We don't have any Japanese beetles up there.

We're -- I see the traps when I'm up there. So I think that if it's a clean nursery, a little less heavy-handed on the container size. You know, let's -- let's look at those. And I -- I think that might be a piggyback again with the USDA. Am I correct; Ryan?

MR. HILES: So for clean nurseries, that's going to -- the options in the proposed rule allow for clean nurseries to be excluded from the treatment requirements if need be.

MR. CROWLEY: Ah. Okay.

MR. HILES: So that's going to be --

MR. CROWLEY: I see. That -- yeah.

MR. HILES: Yes.

MR. CROWLEY: That was -- that was unclear. Thank you for the clarification there.

MR. HILES: No problem.

MR. CROWLEY: But it does seem a -- it's cutting back on a lot of the income of these garden centers that are running clean operations, just like Monrovia, you know, Osuna, Plant World. These places that are, you know, not Bob's cheap shop and

not -- the mass merchants are the ones that scare me the most.

So I'd really like some kind of -- you know, I saw it in California there aren't any bugs, but that's the only place I can ship my ornamental grasses from now. You've nixed me out of Oregon, you nixed me out of Georgia. But the only place I can ship them is California.

Now with this, you're going to nix me out of -- out of California next September 27th, I think -- or September of '27. It gets to the point, it's like, good golly. If you knew how much you cut my income by knocking me out of 15 and 10 gallon crape myrtles out of Georgia, you would be -- it -- it wouldn't -- anyway, it wasn't fun. It's not pleasant.

So I really -- we don't want Japanese beetle, but we feel it's a little heavy-handed from the New Mexico Department of Agriculture. Thank you.

MR. OWEN: Thank you.

Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Japanese Beetle Exterior Quarantine Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be

submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The second rule to be addressed during this hearing is the proposed repeal and replacement of the Control of Wood Destroying Pests Rule.

Mr. Baca will present a summary of major points contained in this proposed replacement rule.

MR. BACA: Good morning. I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture.

The Control of Wood Destroying Pests, Rule 21.17.51 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act, 76.4.1-39 of New Mexico statutes to

address regulatory requirements related to pesticide applicators involved in the control of wood-destroying pests.

Although proposed amendments to the existing Control of Wood Destroying Pest Rules are few, format updates necessitated the repeal and replacement of the existing rule. Major points addressed in the proposed rule include: update noting that not all termiticides are restricted use products.

Alignment of terms with those used in the Pesticide Control Act. And clarification of license types that require supervision while applying insecticides.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Control of Wood Destroying Pests Rule. Please raise your hand and wait until I call on you. Begin your comment by stating your name and affiliation for the record.

Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments. Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Wood Destroying Pests Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The third rule addressed in this hearing is the proposed repeal and replacement of the Continuing Education Units for Pesticide Applicators Rule.

Mr. Baca will present a summary of major points contained in the proposed replacement rule.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture.

The Continuing Education Units for

Pesticide Applicators Rule 21.17.53 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act, 76.4.1-39 of New Mexico statutes to address Environmental Protection Agency required updates relevant to Continuing Education Requirements for Pesticide Applicators.

Extensive proposed changes and format updates necessitated a repeal and replacement process for this rule. Major points proposed in the replacement rule include: definition updates, clarification of continuing education units approval process, addition of Environmental Protection Agency mandated recertification requirements.

And addition of new environmental protection agency pesticide applicator categories.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received no written comments. We'll now open the floor for comments directed at the proposed Continuing Education Units for Pesticide Applicators Rule. Please raise your hand and wait until I call on you.

Begin your comments by stating your name and affiliation for the record. Your comments

should be limited to the contents of the proposed rule. At this time, I will begin accepting comments.

Yes, sir.

MR. FEUER: Good morning. My name is Alan Feuer. I am a certified applicator in the State of New Mexico, license number 61155.

Did you get all that?

THE REPORTER: Yeah.

MR. FEUER: It's good enough?

I've held licensure in the state of New Mexico since 1989. I'm licensed in the Categories 7A, B, C, D, 3A, and 3B, six categories. I come up here today to speak in complete and total favor of the upgrade to the testing and certifications and recertification rules. This is far overdue.

It has been unfair for decades that only one category in our entire licensure circumstances required any sort of continuing education for operator servicemen. And this rectifies quite a bit of that. So thank you for the changes that have been made.

MR. OWEN: Thank you.

Is there anyone else wishing to comment?

Seeing none, I will close the public

oral comment period for the proposed Continuing Education Units for Pesticide Applicators Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The fourth rule addressed in this hearing is the proposed repeal and replacement of the Restricted-Use Pesticides Rule.

Mr. Baca will present a summary of major points contained in the proposed replacement rule.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture.

The Restricted-Use Pesticides Rule 21.17.56 of the New Mexico Administrative Code was

promulgated under the authority of the Pesticide Control Act 76.4.1-39 of New Mexico statutes to address regulations relevant to the purchase, sale, use, and record retention of Restricted Use Pesticides.

Although proposed amendments to the existing Restricted-Use Pesticides Rule are few, format updates necessitated the repeal and replacement of the current rule. The major point addressed in the proposed rule is a revision of pesticide records requirements to ensure compliance with Environmental Protection Agency mandates.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed Restricted-Use Pesticides Rule. Please raise your hand and wait until I call on you.

Begin your comment by stating your name and affiliation for the record. Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments. Is there anyone wishing to comment?

Seeing none, I will close the public

oral comment period for the proposed Restricted-Use Pesticide Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The fifth rule addressed in this hearing is the proposed repeal and replacement of the M-44 and Livestock Protection Collar Rule.

Mr. Baca will present a summary of major points contained in the proposed replacement rule.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture.

The M-44 and the Livestock Protection Collar Rule 21.17.57 of the New Mexico Administrative Code was promulgated under the authority of the

Pesticide Control Act 76.4.1-39 of New Mexico statutes to address regulations relevant to the purchase, sale, use, accident reporting, and record retention of M-44s and Livestock Protection Collars.

Although proposed amendments to the existing M-44 and the Livestock Protection Collar Rule are few, the format updates necessitated the repeal and replacement of the existing rule.

Major points proposed in the replacement rule include: clarification of prospective licensee qualifications, updating of records requirements, and harmonization of rule language with product labels.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed M-44 and Livestock Protection Collar Rule. Please raise your hand and wait until I call on you. Begin your comment by stating your name and affiliation for the record.

Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments. Is there anyone wishing to comment?

Seeing none, I will close the public oral comment period for the proposed M-44 and Livestock Protection Collar Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The last rule addressed in this hearing are proposed amendments to the Pesticides Rule. Mr. Baca will present a summary of major points contained in the proposed rule amendments.

MR. BACA: I am Steve Baca, an assistant division director with New Mexico Department of Agriculture.

The Pesticides Rule 21.17.50 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act, 76.4.1-39 of

New Mexico statutes to address regulations relevant to the sale of pesticides, purchase, use, licensing, and record requirements by commercial pesticide applicators and individuals using restricted use pesticides.

And identifying pesticide applicator licensing categories. The majority of proposed amendments to the Pesticide Rule are Environmental Protection Agency mandated updates.

These updates include: changes in examination requirements, record requirement enhancements, new pesticide applicator categories, and minimum age establishment for applicators.

Additionally, proposed amendments include: general language cleanup, increase in minimal insurance requirements, definition updates, and clarification to operator's training permits.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Pesticide Rule. Please raise your hand and wait until I call on you. Begin your comment by stating your name and affiliation for the record.

Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments.

Yes, sir.

MR. FEUER: Thank you. My name is Alan Feuer. I'm a commercial applicator, license number 61155, in six categories in the state of New Mexico. I rise to explain -- or to state my support for these changes.

MR. OWEN: Thank you.

Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed amendments to the Pesticides Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording

will be available from New Mexico Department of Agriculture's website.

The time is 9:23 a.m. I will now close this public hearing that addressed amendments to or the repeal and replacement of six New Mexico Department of Agriculture pesticide or plant pest related rules. Thank you.

(Whereupon, the meeting concluded at 9:23 a.m.)

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.



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

CERTIFICATE OF TRANSCRIBER

I, MARY SACKETT, 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.



MARY SACKETT

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New Mexico Rules of Civil Procedure for the

District Courts

Article 5, Rule 1-030

(e) Review by Witness; Changes; Signing. If requested by the deponent or a party before completion of the deposition, the deponent shall have thirty (30) days after being notified by the officer that the transcript or recording is available in which to review the transcript or recording and, if there are changes in form or substance, to sign a statement reciting such changes and the reasons given by the deponent for making them. The officer shall indicate in the certificate prescribed by Subparagraph (1) of Paragraph F of this rule whether any review was requested and, if so, shall append any changes made by the deponent during the period allowed.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE STATE RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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Exhibits

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the New Mexico Department of Agriculture (NMDA) proposes to repeal and replace the following: 21.17.27 NMAC, JAPANESE BEETLE EXTERIOR QUARANTINE; 21.17.51 NMAC, CONTROL OF WOOD DESTROYING PESTS; 21.17.53 NMAC, CONTINUING EDUCATION UNITS FOR PESTICIDE APPLICATORS; 21.17.56, NMAC RESTRICTED-USE PESTICIDES; and 21.17.57 NMAC, M-44 AND THE LIVESTOCK PROTECTION COLLAR. NMDA proposes amending 21.17.50 NMAC, PESTICIDES.

PURPOSE AND SUMMARY OF PRIMARY PROPOSED RULE CHANGES:

21.17.27 NMAC, JAPANESE BEETLE EXTERIOR QUARANTINE
Extensive amendments necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: additional terms added to the definition section to clarify regulatory requirements; scope of Japanese beetle (JB) quarantined areas expanded from 36 states to all U.S. states and specific Canadian provinces; scope of regulated articles expanded to include additional nursery stock items; compliance agreements (issued by NMDA) required for shipment of regulated articles into New Mexico; departments of agriculture in originating states provided options to petition NMDA for areawide or single-nursery compliance agreements; treatment requirements clarified for shipment of regulated articles into New Mexico; exceptions from compliance agreement requirements provided for small (under 10-inch container diameter) non-gramineous nursery stock; and requirement for small (under 10-inch container diameter) non-gramineous nursery stock to be treated and accompanied by a phytosanitary certificate for shipment into New Mexico.

21.17.51 NMAC, CONTROL OF WOOD DESTROYING PESTS
Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: removal of restricted use statement to reflect that not all termiticides are restricted use products; alignment of terms with those in the Pesticide Control Act, 76.4.18 et. seq. NMSA 1978; and clarification of license types that require direct supervision of employees applying pesticides.

21.17.53 NMAC, CONTINUING EDUCATION UNITS FOR PESTICIDE APPLICATORS
Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: updates to definitions; clarification of Continuing Education Unit approval process; addition of Environmental Protection Agency mandated recertification requirements, including the number of Continuing Education Units required for all applicator categories.

21.17.56 NMAC, RESTRICTED-USE PESTICIDES
Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: updates to language and revision of additional pesticide dealer record requirements to comply with Environmental Protection Agency.

21.17.57 NMAC, M-44 AND THE LIVESTOCK PROTECTION COLLAR
Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: clarification of prospective licensee qualifications; and records and usage requirements updated to address product label inconsistencies.

21.17.50 NMAC, PESTICIDES
Amendments are primarily directed at updating pesticide applicator requirements to comply with federal Environmental Protection Agency laws including: pesticide applicator examination requirements; enhanced dealer record requirements; minimum age requirements for pesticide applicator licensees (18 years old); and addition of new pesticide applicator categories. General cleanup of rule language included definition updates and increase in minimum insurance coverage requirements.

STATUTORY AUTHORITY (Rule 21.17.27 NMAC)**:** Granted to the Board of Regents of New Mexico State University under the Pest Control Act, Chapter 76, Article 6, Sections 1 through 9 NMSA 1978 Compilations. **(**Rules 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC, and 21.17.50 NMAC)**:** 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 Compilations.

Copies of the Notice of Proposed Rulemaking and the proposed rules (including any technical information) are available by electronic download from the New Mexico Department of Agriculture website (https://nmdeptag.nmsu.edu) and are also available at the department's office, located at 1050 Stewart Street, Las Cruces, NM.

Tuesday, August 4, 2026, at 9 a.m., NMDA will host a public hearing that may be attended in person, by video conference, or by telephone. The hearing will take place at the Gerald Thomas Hall Auditorium (Room 194) on the campus of New Mexico State University, located at 940 College Drive, Las Cruces, NM. The hearing will include repeal and replacement, and or amendments to rules 21.17.27 NMAC, 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC and 21.17.50 NMAC.

Join the hearing via **video conference** Tuesday, August 4, 2026, at 9:00 a.m.:
Meeting URL: https://nmsu.zoom.us/j/87014463854
Meeting ID: 870 1446 3854
Or
Join the hearing via **phone** Tuesday, August 4, 2026, at 9:00 a.m.:
Phone: 1 669 900 6833 or 1 719 359 4580
Meeting ID: 870 1446 3854

Thursday, August 6, 2026 at 9 a.m., NMDA will host a public, in-person hearing at the CNM Workforce Training Center, located at 5600 Eagle Rock Ave NE, Albuquerque, NM. The hearing will include repeal and replacement, and or amendments to rules 21.17.27 NMAC, 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC, and 21.17.50 NMAC.

Oral and written comments will be accepted at the hearings from members of the public and interested parties. Written comments will be accepted until August 6, 2026, at 5:00 p.m. Comments may be submitted via email to 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

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/Secretary of Agriculture will consider all oral comments and will review all timely submitted written comments and responses.

AVISO DE PROPUESTA DE REGLAMENTACIÓN

POR LA PRESENTE SE NOTIFICA que el Departamento de Agricultura de Nuevo México (NMDA) propone derogar y reemplazar las siguientes normas: 21.17.27 NMAC, CUARENTENA EXTERIOR CONTRA EL ESCARABAJO JAPONÉS; 21.17.51 NMAC, CONTROL DE PLAGAS QUE DESTRUYEN LA MADERA; 21.17.53 NMAC, UNIDADES DE EDUCACIÓN CONTINUA PARA APLICADORES DE PLAGUICIDAS; 21.17.56 NMAC, PLAGUICIDAS DE USO RESTRINGIDO; y 21.17.57 NMAC, M-44 Y EL COLLAR DE PROTECCIÓN PARA GANADO. El NMDA propone modificar la norma 21.17.50 NMAC, PLAGUICIDAS.

PROPÓSITO Y RESUMEN DE LOS PRINCIPALES CAMBIOS PROPUESTOS A LA REGLAMENTACIÓN:

21.17.27 NMAC, CUARENTENA EXTERIOR CONTRA EL ESCARABAJO JAPONÉS
La necesidad de realizar modificaciones extensas requirió la derogación y el reemplazo de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: incorporación de términos adicionales en la sección de definiciones para aclarar los requisitos reglamentarios; ampliación del alcance de las áreas bajo cuarentena por el escarabajo japonés (JB, por sus siglas en inglés), pasando de 36 estados a todos los estados de EE. UU. y provincias canadienses específicas; ampliación del alcance de los artículos regulados para incluir productos adicionales de vivero; exigencia de acuerdos de cumplimiento (emitidos por el NMDA) para el envío de artículos regulados a Nuevo México; otorgamiento de opciones a los departamentos de agricultura de los estados de origen para solicitar al NMDA acuerdos de cumplimiento a nivel de área o para viveros individuales; aclaración de los requisitos de tratamiento para el envío de artículos regulados a Nuevo México; establecimiento de excepciones a los requisitos de acuerdo de cumplimiento para plantas de vivero pequeñas (en contenedores de menos de 10 pulgadas de diámetro) que no sean gramíneas; y requisito de que las plantas de vivero pequeñas (en contenedores de menos de 10 pulgadas de diámetro) que no sean gramíneas sean tratadas y vayan acompañadas de un certificado fitosanitario para su envío a Nuevo México.

21.17.51 NMAC, CONTROL DE PLAGAS QUE DESTRUYEN LA MADERA
Los requisitos de actualización de formato hicieron necesaria la derogación y el reemplazo de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: eliminación de la declaración de uso restringido para reflejar que no todos los termiticidas son productos de uso restringido; alineación de los términos con los de la Ley de Control de Pesticidas (*Pesticide Control Act*), secciones 76.4.18 y siguientes de la NMSA 1978; y aclaración de los tipos de licencia que requieren supervisión directa de los empleados que aplican pesticidas.

21.17.53 NMAC, UNIDADES DE EDUCACIÓN CONTINUA PARA APLICADORES DE PESTICIDAS
Los requisitos de actualización de formato hicieron necesaria la derogación y sustitución de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: actualizaciones de definiciones; aclaración del proceso de aprobación de las Unidades de Educación Continua; e incorporación de los requisitos de recertificación exigidos por la Agencia de Protección Ambiental (EPA), incluido el número de Unidades de Educación Continúa requerido para todas las categorías de aplicadores.

21.17.56 NMAC, PESTICIDAS DE USO RESTRINGIDO
Los requisitos de actualización de formato hicieron necesaria la derogación y sustitución de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: actualizaciones en la redacción y revisión de los requisitos adicionales de registro para distribuidores de pesticidas, a fin de cumplir con las disposiciones de la Agencia de Protección Ambiental (EPA).

21.17.57 NMAC, M-44 Y EL COLLAR DE PROTECCIÓN PARA GANADO
Los requisitos de actualización de formato hicieron necesaria la derogación y sustitución de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: aclaración de los requisitos para los futuros titulares de licencias; y actualización de los requisitos de registro y uso para abordar las inconsistencias en las etiquetas de los productos.

21.17.50 NMAC, PESTICIDAS
Las modificaciones se centran principalmente en actualizar los requisitos para aplicadores de pesticidas a fin de cumplir con las leyes federales de la Agencia de Protección Ambiental (EPA), incluyendo: requisitos de examen para

aplicadores de pesticidas; requisitos reforzados de registro para distribuidores; requisitos de edad mínima para los titulares de licencias de aplicador de pesticidas (18 años); e incorporación de nuevas categorías de aplicadores de pesticidas. Se realizó una revisión general de la redacción de la norma que incluyó actualizaciones de definiciones y un aumento en los requisitos mínimos de cobertura de seguro.

AUTORIDAD LEGAL (Norma 21.17.27 NMAC): Otorgada a la Junta de Regentes de la Universidad Estatal de Nuevo México (*New Mexico State University*) en virtud de la Ley de Control de Plagas (*Pest Control Act*), Capítulo 76, Artículo 6, Secciones 1 a 9 de la Compilación NMSA 1978. AUTORIDAD LEGAL (Reglas 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC y 21.17.50 NMAC): Otorgada a la Junta de Regentes de la Universidad Estatal de Nuevo México (New Mexico State University) en virtud de la Ley de Control de Pesticidas de Nuevo México (New Mexico Pesticide Control Act), Capítulo 76, Artículo 4, Secciones 1 a 39, Compilaciones NMSA 1978.

Se pueden obtener copias del Aviso de Propuesta de Reglamentación y de las reglas propuestas (incluida cualquier información técnica) mediante descarga electrónica desde el sitio web del Departamento de Agricultura de Nuevo México (https://nmdeptag.nmsu.edu); también están disponibles en la oficina del departamento, ubicada en 1050 Stewart Street, Las Cruces, NM.

El martes 4 de agosto de 2026, a las 9:00 a. m., el NMDA celebrará una audiencia pública a la que se podrá asistir en persona, por videoconferencia o por teléfono. La audiencia tendrá lugar en el auditorio Gerald Thomas Hall (Sala 194) del campus de la New Mexico State University, ubicado en 940 College Drive, Las Cruces, NM. La audiencia abordará la derogación y sustitución, y/o las modificaciones de las normas 21.17.27 NMAC, 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC y 21.17.50 NMAC.

Participe en la audiencia por **videoconferencia** el martes 4 de agosto de 2026, a las 9:00 a. m.:
URL de la reunión: https://nmsu.zoom.us/j/87014463854
ID de la reunión: 870 1446 3854
O
Participe en la audiencia por **teléfono** el martes 4 de agosto de 2026, a las 9:00 a. m.:
Teléfono: 1 669 900 6833 o 1 719 359 4580
ID de la reunión: 870 1446 3854

El jueves 6 de agosto de 2026, a las 9:00 a. m., el NMDA celebrará una audiencia pública presencial en el CNM Workforce Training Center, ubicado en 5600 Eagle Rock Ave NE, Albuquerque, NM. La audiencia abordará la derogación y sustitución, y/o las modificaciones de las normas 21.17.27 NMAC, 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC y 21.17.50 NMAC.

En las audiencias se aceptarán comentarios orales y escritos por parte del público y de las partes interesadas. Se aceptarán comentarios por escrito hasta el 6 de agosto de 2026 a las 5:00 p.m. Los comentarios pueden enviarse por correo electrónico a comments@nmda.nmsu.edu o presentarse enviando copias originales a:

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

NECESIDADES ESPECIALES: Si usted es una persona con discapacidad que necesita un lector, un amplificador, un intérprete de lengua de señas cualificado o cualquier otra forma 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 tan pronto como sea posible.

El Director/Secretario de Agricultura tomará en cuenta todos los comentarios orales y revisará todos los comentarios y respuestas por escrito presentados dentro del plazo establecido.

JAPANESE BEETLE EXTERIOR QUARANTINE CHANGE CONSIDERATION
June 1, 2026

NEW MEXICO DEPARTMENT OF AGRICULTURE POINT OF VIEW:

1) Japanese beetle continues to be introduced and established into western states, primary through the movement of infested nursery and turf stocks.
2) Movement from infested to uninfested areas is believed primarily due to:
   a) Inappropriate or lack of required pesticide applications by exporting nurseries
   b) Disregard for uninfested states' import quarantines
   c) Insufficient oversight of exported nursery stock by originating state departments of agriculture
   d) Loss of identity of nursery stock origin and treatment requirements (transshipped stock).
3) Japanese beetle has been introduced into New Mexico on several occasions through the import of non-compliant infested nursery and turf.
4) Periodic and isolated Japanese beetle introductions into New Mexico have been eradicated with the support of nurseries, universities, and city parks.
5) It is unlikely New Mexico will expend state funds to address eradication of widespread established Japanese beetle infestations (Utah $400,000 ongoing; Oregon $2.8 million ongoing).
6) New Mexico places a priority on preventing the introduction of JB into the state.
7) Japanese beetle establishment in the state will increase pesticide use to maintain aesthetics and viability of turf and landscape plants; profitability of specific agricultural crops.
8) USDA estimates annual US control costs of Japanese beetle exceeds $460 million.
9) New Mexico does not follow all elements of the Japanese Beetle Harmonization plan (not proved to be particularly effective in preventing spread).
10) Approximately 42 states have established populations of Japanese beetle in one or more locations (several states have ongoing eradication programs).
11) New Mexico is considered a high-risk state for introductions.

PRIMARY PROPOSED RULE ELEMENTS:

The department has elected to use the repeal and replace option for enacting rule changes to the Japanese Beetle Exterior Quarantine. Primary points in the proposed replacement Japanese Beetle Exterior Quarantine rule follows:

I. All nursery stock imported into New Mexico will be required to be shipped under either an Individual Compliance Agreement or Area Wide Compliance Agreement. Areawide Compliance Agreements, signed by origin state department of agriculture, on behalf of nurseries within a defined area, are available for those areas with extensive trapping programs with negative or incidental trapping results. Compliance Agreements state specific requirements that nurseries shall comply with prior to movement of stock into New Mexico. Primary requirements for each of three general types of compliance agreements follow:

A. **Individual exporting nurseries in Japanese beetle free locations** will have to demonstrate their Japanese beetle free status through annual on-site trapping programs, in collaboration with their state department of agriculture. Both gramineous and non-gramineous stock will be allowed without treatment. **Transshipment requirements will be addressed in each Single-Nursery Compliance Agreement. Approved transshipments may be allowed based on whether the origin is approved by NMDA, treatment, etc.**

B. **Multiple nurseries exporting regulated nursery stock originating from a Japanese beetle-free county, state, or area** may ship under a single Areawide Compliance Agreement, requested by the origin state department of agriculture. Status of Japanese beetle in a designated defined area shall be demonstrated through the establishment of an extensive annual trapping program approved by NMDA. Treatment requirements and ability to ship gramineous stock shall be dependent on trapping results and eradication efforts, as addressed in Area Wide Compliance Agreement requirements. The agreement will also address requirements to keep non-gramineous stock weed-free during the entire flight period, and ability to transship nursery stock. **Transshipment requirements will be addressed on an individual Areawide Compliance Agreement basis. Approved transshipments may be allowed based on whether the origin is approved by NMDA, treatment, etc.**

C. Individual nurseries exporting nongramineous nursery stock from a known Japanese beetle infested location or from areas where Japanese beetle status is unknown will be required to ship in compliance with Single-Nursery Compliance Agreement requirements. Requirements will include properly timed treatments and may include an NMDA-approved annual trapping program in the area to determine first Japanese beetle emergence to ensure proper treatment timing. Oversight of insecticide applications by origin state department of agriculture is required. Non-gramineous stock to be kept weed-free during the entire Japanese beetle flight period. Gramineous stock will be prohibited from entry under this option, regardless of treatment. See option D for gramineous stock grown in exclusionary facilities.

D. Individual nurseries exporting nursery stock including gramineous plants maintained in certified exclusionary facilities in infested location or areas where Japanese beetle status is unknown will be required to ship in compliance with Single-Nursery Compliance Agreement requirements. Requirements will include stock being maintained for a minimum of 12 months in premises certified by origin state's department of agriculture as meeting requirements to exclude Japanese beetle. Inspections shall be made annually by the origin state's department of agriculture. Requirements for insecticide treatments will be based on current and previous Japanese beetle trapping data and shall be addressed within the compliance agreement. Treatment will be required for gramineous plants imported under this option. Oversight of insecticide applications by origin state department of agriculture is required.

II. Regulated nursery stock imported into New Mexico under a compliance agreement requiring chemical treatment must adhere to the following requirements:

A. Active ingredients must be approved by NMDA.
B. Applications must be applied to kill hatching Japanese beetle larvae prior to the flight season.
C. Nursery stock originating in Japanese beetle infested areas and treated exclusively during or following flight period is prohibited from entering New Mexico.
D. Method of application must be approved by NMDA and may include surface applications and drench treatments, depending on propagation method (i.e., field grown vs. containerized).
E. Treatments must be overseen by the origin state department of agriculture.

III. Nongramineous plants growing in containers that have a horizontal diameter less than 78.5 square inches (i.e. 10 inch diameter pot) or shipped as “ball and burlap” with rootballs less than 10 inches in diameter can be shipped without a compliance agreement if they have been treated to destroy Japanese beetle infestations and are accompanied by a phytosanitary certificate stating timing and method of application and active ingredient.

IV. Houseplants maintained in the home and not for sale are exempt from requirements in this rule.

COMPARISON BETWEEN CURRENT JAPANESE BEETLE EXTERIOR QUARANTINE RULE (21.17.27 NMAC) AND PROPOSED RULE CHANGES

Section (as updated)	Current 2011 Japanese Beetle Exterior Quarantine	Proposed Japanese Beetle Exterior Quarantine	Key Difference / Impact
21.17.27.5 Effective Date	June 30, 2011	September 1, 2027	Effective date updated
21.17.27.6 Objective	Short statement about reducing the risk of introducing JB into NM	Clear and in-depth explanation of western-state spread of JB, nursery stock pathway, treatment timing issues, transshipment risks, compliance agreements and phytosanitary certificate requirements.	Objectives are much broader and offer a clear direction
21.17.27.7 Definitions	Few basic definitions for existing rule	**Definitions added:** 1) Compliance Agreement 2)Gramineous 3)Infested includes states w/unknown JB population 4)Nongramineous 5)Nursery 6)Transship **Definitions revised:** 1)Free of soil expanded 2)Phytosanitary Certificate 3) Infestation clarified	Added and revised definitions for clarity to be in line with current nursery shipping, production and sales practices and goals
21.17.27.8(B) Areas Under Quarantine	Specific list of certain states based on vague U.S. Harmonization Plan	All U.S. states, D.C., and several Canadian provinces	Quarantine area expanded. NM will not be incorporating JB Harm. Plan in this new rule
21.17.27.8(C) Additional Areas	Areas where beetles were found or believed to occur	Specifies department discretion; adds areas for quarantine whose JB status has not been determined (FL, LA, etc.)	Current version is broader. NM will not be incorporating JB Harm. Plan in this new rule
21.17.27.8(D) Regulated Articles	Grass and grass sod, regardless of container size, and plants over 12'' and cubic area thresholds	All gramineous plants and Nongramineous plants (all other plants) with roots and soil or soilless medium, Designated size of container has been deleted and moved to exceptions section; revised catch-all language to be more inclusive of materials which may present risk	Current version covers most plants in this section, specific regulated articles added, more comprehensive of risk
21.17.27.9(A) Shipping/ Restrictions	Entry allowed with phytosanitary certificate or compliance agreement under listed options and within JB Harmonization Plan Framework	Entry prohibited without current signed compliance agreement; shipment must include compliance agreement + phytosanitary certificate (when required)	Stricter documentation requirements; compliance agreement always required, phytosanitary certificate required if stipulated in compliance agreement.
21.17.27.9(B)	Certificates/compliance agreements attached to outside of container or shipping documents	Shipping docs, phytosanitary certificates, and compliance agreements must be available by NM nursery for 12 months for NMDA	Time period for shipping records and approved shipping docs stated
21.17.27.9(C)	Director may make exceptions, modifications, or additions	Transshipped regulated articles prohibited unless from approved location or compliant under agreement and trapping data	Current section shifts to transshipment control and traceability; department ability to make exceptions moved to 21.17.27.12 Exceptions

21.17.27.10 Compliance Agreement Options and Requirements	Not present; section number previously "Exceptions"	Listing of options available to ship regulated articles into NM	New; creates compliance agreement options and requirements
21.17.27.10(A)	Not present	Single-Nursery Japanese Beetle Free Compliance Agreement	New; outlines requirements for single-nursery agreement based on negative trapping data at nursery location
21.17.27.10(B)	Not present	Areawide-Nursery Japanese Beetle Free Compliance Agreement	New; outlines requirements for areawide-nursery agreement based on areawide trapping data
21.17.27.10(C)	Not present	Exclusionary Facility Compliance Agreement	New; outlines requirements for single-nursery agreement based on facility's ability to exclude Japanese beetle
21.17.27.10(D)	Not present	Infested Area Single-Nursery Compliance Agreement using a approved treatment	New; outlines requirements for single-nursery agreement based on treatment
21.17.27.11 Chemical Treatment Requirements	Not present as a separate section; section number previously "Disposition of Violations;" the language addressing treatment refers to the JB Harmonization Plan	Chemical Treatment Requirements Department-approved active ingredients/methods, timing rules, no entry for stock treated only during/following flight period, certificate declaration, compliance agreement number	New; major new operational/treatment requirements. Treatments approved by the department, not dictated under JB Harmonization Plan
21.17.27.12 Exceptions	None	Houseplants not for sale are exempt; smaller nongramineous plants allowed without compliance agreement if treated/certified; small soil samples exempt under certain conditions; USACE soil samples exempt; allows department-granted exceptions	Current document creates multiple explicit exceptions
21.17.27.13 Disposition of Violations	Failure to comply is violation; board may direct disposal/removal/other mitigation (Formerly 21.17.27.11)	Clarifies quarantine, expulsion/destruction, owner/agent cost responsibility, reimbursement, invoice/payment deadline, and legal action mitigation measures; language directly from pecan nut exterior quarantine	Enforcement provisions expanded considerably, clarifies financial responsibility
21.17.27.14 Fees	Not present	Special inspections/requested services may be subject to fees under 21.1.2 NMAC	New cost recovery provision
21.17.27.15 Liability Disclaimer	Not present as section 15	Board disclaims liability for costs incurred from inspection or compliance	Liability disclaimer moved from 12 to 15 and reworded
21.17.27.15 Liability Disclaimer	Formerly 21.17.27.12		New section
21.17.27.16	Not present	Clarifies that regulated articles are also subject to provisions of other laws etc. that apply	New legal clarification
History oof 21.17.27 NMAC	Not Present	States 2011 rule was repealed and replaced effective 9/01/2027	New section; history added

ARTICLE 6 Pest Control
76-6-1. Short title.
ANNOTATIONS
76-6-2. Definitions.
76-6-3. Administration; rules and regulations.
ANNOTATIONS
76-6-4. Voluntary measures.
ANNOTATIONS
76-6-5. Plant quarantine; authority.
ANNOTATIONS
76-6-6. Abatement and emergency measures authorized.
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76-6-7. Inspections authorized; warrants.
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76-6-8. Cooperation.
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76-6-9. Penalties.
ANNOTATIONS

76-6-1. Short title.

This act [76-6-1 to 76-6-9 NMSA 1978] may be cited as the "Pest Control Act."

History: 1953 Comp., § 45-8-39, enacted by Laws 1969, ch. 41, § 1.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — Constitutionality of statutes for protection of vegetation against disease or infection, 70 A.L.R.2d 852.

3 C.J.S. Agriculture § 83.

76-6-2. Definitions.

As used in the Pest Control Act:

A. "board" means the board of regents of New Mexico state university or any officer or employee to whom authority to act in their stead has been or hereafter may be delegated;

B. "pest" means any insect, disease or other organism of any character causing or capable of causing injury or damage to any plants or parts thereof or any processed, manufactured or other products of plants;

C. "host" means any plant or plant product upon which a pest is dependent for completion of any portion of its life cycle;

D. "infestation" means actually infested or infected with a pest, or so exposed to infestation that it would be reasonable to believe that an infestation exists;

E. "person" means any individual, corporation, company, society, association or other business entity;

F. "move" means to ship, offer for shipment, receive for transportation, carry or otherwise transport, move or allow to be moved;

G. "regulated article" means any article of any character as described in the quarantine carrying or capable of carrying the plant pest against which the quarantine is directed;

H. "certificate" means a document issued or authorized by the board indicating that a regulated article is not contaminated with a pest; and

I. "permit" means a document issued or authorized by the board to provide for the movement of regulated articles to restricted destinations for limited handling, utilization or processing.

History: 1953 Comp., § 45-8-40, enacted by Laws 1969, ch. 41, § 2.

76-6-3. Administration; rules and regulations.

The board shall have the responsibility for the administration of the Pest Control Act. The board may assign functions or delegate any authority provided for in the Pest Control Act to any of its officers or employees; provided, that such functions or authority be exercised under the general supervision of the board. The board shall promulgate all rules and regulations necessary for the efficient execution of the provisions of the Pest Control Act.

History: 1953 Comp., § 45-8-41, enacted by Laws 1969, ch. 41, § 3.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 21, 22.

3 C.J.S. Agriculture § 85.

76-6-4. Voluntary measures.

The board, either independently or in cooperation with counties, cities, towns or other political subdivisions of the state, farmers' associations or similar organizations, individuals, [the] federal government or of [with] other states, is authorized to carry out operations or measures to locate, suppress, control, eradicate or prevent or retard the spread of pests with the consent of the owners of the property involved.

History: 1953 Comp., § 45-8-42, enacted by Laws 1969, ch. 41, § 4.

ANNOTATIONS

Bracketed material. — The bracketed material was inserted by the compiler and is not part of the law.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 58.

76-6-5. Plant quarantine; authority.

A. The board is authorized to quarantine this state or any portion thereof when they determine that such action is necessary to prevent or retard the spread of a pest within or from this state and to quarantine any other state or portion thereof whenever they determine that a pest exists therein and that such action is necessary to prevent or retard its spread into this state. Before promulgating their determination that a quarantine is necessary, the board shall, after due notice to interested parties, hold a public hearing under such rules as they shall promulgate, at which hearing any interested party may appear and be heard either in person or by attorney; provided, the board may impose a temporary quarantine for a period not to exceed ninety days during which time a public hearing, as provided herein shall be held if it appears that a quarantine for more than the ninety-day period will be necessary to prevent or retard the spread of the pest. The board shall give notice of the establishment of the quarantine in such newspapers in the quarantined area as they may select. The board may limit the application of the quarantine to the infested portion of the quarantined area and appropriate environs, to be known as the regulated area, and may, without further hearing, extend the regulated area to include additional portions of the quarantined area upon publication of a notice to that effect in such newspapers in the quarantined area as they may select or by direct written notice to those concerned.

B. Following establishment of the quarantine, no person shall move any regulated article described in the quarantine or move the pest against which the quarantine is established, within, from, into or through this state contrary to regulations promulgated by the board. Notice of the regulations shall be published in such newspapers in the quarantined area as the board may select.

C. The regulations may restrict the movement of the pest and any regulated articles from the quarantined or regulated area in this state into or through other parts of this state or other states and from the quarantined or regulated area in other states into or through this state and shall impose such inspection, disinfection, certification or permit and other requirements as the board deems necessary to effectuate the purposes of the Pest Control Act.

History: 1953 Comp., § 45-8-43, enacted by Laws 1969, ch. 41, § 5.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 43 to 45.

3 C.J.S. Agriculture § 89.

76-6-6. Abatement and emergency measures authorized.

A. Whenever the board finds any article that is infested or reasonably believed to be infested or a host or pest exists on any premises or is in transit in this state, it may, upon giving notice to the owner or his agent in possession thereof, seize, quarantine, treat or otherwise dispose of the pest, host or article in such manner as the board deems necessary to suppress, control, eradicate or prevent or retard the spread of a pest, or the board may order the owner or agent to so treat or otherwise dispose of the pest, host or article.

B. When the board finds that a continuing threat of the spread of a pest exists, and after appropriate notice, an owner or his agent does not take immediate measures to prevent or retard the spread of the pest, the board may take reasonable emergency action as necessary in accordance with the provisions of the Pest Control Act and regulations of the board. The board may assess an emergency action fee to recover the cost of the emergency action, not to exceed one thousand dollars ($1,000), against the owner of the property that was subject to the board's emergency action.

History: 1953 Comp., § 45-8-44, enacted by Laws 1969, ch. 41, § 6; 1997, ch. 176, § 1.

ANNOTATIONS

The 1997 amendment, effective June 20, 1997, designated the existing language as Subsection A; added Subsection B; and made stylistic changes.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 49 to 51.

3 C.J.S. Agriculture § 83.

76-6-7. Inspections authorized; warrants.

A. To effectuate the purposes of the Pest Control Act, the board may, with the consent of the owner or by court order, make reasonable inspection of any premises in this state and any property therein or thereon and may without a warrant stop and inspect, in a reasonable manner, any means of conveyance moving within this state, upon probable cause to believe that it contains or carries any pest, host or other article subject to the Pest Control Act. The board may make any other reasonable inspection of any premises or means of conveyance for which, under the constitution of the United States and the constitution of this state, no warrant is required.

B. The appropriate district courts in this state shall have authority to issue orders for such inspections upon a showing by the board that there is probable cause to believe that there exists in or on the property to be inspected a pest, host or other article subject to the Pest Control Act.

History: 1953 Comp., § 45-8-45, enacted by Laws 1969, ch. 41, § 7.

ANNOTATIONS

Cross references. — For constitutional provision as to searches and seizures, *see* N.M. Const., art. II, § 10.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 44, 45, 50.

3 C.J.S. Agriculture § 83.

76-6-8. Cooperation.

A. The board is authorized to cooperate with any agency of the federal government in such operations and measures as they deem necessary to suppress, control, eradicate, prevent or retard the spread of any plant pest. The board is authorized to expend state funds on federal lands.

B. The board is authorized to cooperate with agencies of adjacent states in such operations and measures as they deem necessary to locate, suppress, control, eradicate, prevent or retard the spread of any pest.

History: 1953 Comp., § 45-8-46, enacted by Laws 1969, ch. 41, § 8.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 43.

3 C.J.S. Agriculture § 96.

76-6-9. Penalties.

A. Any person who shall violate any of the provisions of the Pest Control Act, or any rule, regulation or quarantine promulgated by the board, or who shall alter, forge or counterfeit, or use without authority any certificate or permit or other document provided for in the Pest Control Act or in the regulations of the board provided for in the Pest Control Act, shall be deemed guilty of a misdemeanor.

B. Any person who has knowingly moved any regulated article into this state from any quarantined area of any other state, which article has not been treated or handled under provisions of the quarantine and regulations in effect at the point of origin, shall be guilty of a misdemeanor.

History: 1953 Comp., § 45-8-47, enacted by Laws 1969, ch. 41, § 9.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 42, 50, 51.

3 C.J.S. Agriculture § 87.

Comments

Japanese Beetle Exterior Quarantine — NMAC 21.17.27 Public Comments

Name: N/A

Email: dancas@nnmt.net

Submitted on: August 1, 2026, 9:01 AM

Comment: i would like a variance from these rules in areas where we collect: ranches and other rural locations . we collect native pinion/junipers in rural san migel, santa fe, mora, colfax and other places far from cities or smaill towns. i believe positive trapping should not be necessary in these locations. we have dug trees in these and other locations for years. Never, that am aware of, have there been any instances of japanese beetle presence. These areas are semi desert, hot, dry environments. thanks, dan cassidy, cassidy farms, cleveland, nm

Hearing Sign-In Sheets

Japanese Beetle +

PESTICIDES RULEMAKING HEARING

PROJECT: NMDA Rulemaking **MEETING DATE:** August ~~5~~ 4, 2026

FACILITATOR: Les Owen/Brad Lewis **LOCATION:** ~~Albuquerque~~ Las Cruces, NM

NAME	PHONE (OPTIONAL)	EMAIL (OPTIONAL)
Teri Cates	575-740-2980	tericates@yahoo.com
MARGARET Adams	575 635-5476	peggy.adams@bugyman.com

Japanese Beetle Quarantine Rule +

PESTICIDES RULEMAKING HEARING

PROJECT:	NMDA Rulemaking	**MEETING DATE:**	August 6, 2026
FACILITATOR:	Les Owen/Brad Lewis	**LOCATION:**	Albuquerque, NM

NAME	PHONE (OPTIONAL)	EMAIL (OPTIONAL)
Alan ~~Feuer~~ Feuer	505 918 3121 ~~301~~	ALAN@PPCABQ.Com
Kyleigh Serna		kserna@plantworldinc.com
Dixie Mussaw	505-227-1701	Dixie.Mussaw@heritageppg.com
Chris Benavidez	505-254-1133	cbenavidez@plantworldinc.com
John Crowley	505.307.8695	John.Crowley@Monrovia.Com

SIGNATURE: In witness whereof, we have caused the seal of the Board of Regents of New Mexico State University to be affixed this 1st day of October 2026, for approval of:

Proposed Repeal and Replacement of the Japanese Beetle Exterior Quarantine Rule, Title 21, Chapter 17, Part 27 of the New Mexico Administrative Code (21.17.27 NMAC).

_____
Ammu Devasthali, Chair
Board of Regents
New Mexico State University

Attest:

_____
Christopher Saucedo, Sec./Treasurer
Board of Regents
New Mexico State University

Board of Regents Meeting
Meeting Date: October 1, 2026
Agenda Item Cover Page

Agenda Item # IX.E

☐ Action Item
☒ Consent Item
☐ Informational Item

Presented By:
Jeff M. Witte
Director/Secretary New Mexico Department of Agriculture (NMDA)

Agenda Item:

Proposed Repeal and Replacement of the M-44 Capsules and the Livestock Protection Collar Rule, Title 21, Chapter 17, Part 57 of the New Mexico Administrative Code (21.17.57 NMAC)

Requested Action of the Board of Regents:

Approval of Repeal and Replacement of 21.17.57 NMAC, M-44 Capsules and the Livestock Protection Collar Rule.

Executive Summary:

The New Mexico Department of Agriculture (NMDA) held two hearings regarding the proposed repeal and replacement of 21.17.57 NMAC. On Tuesday, August 4, 2026, at 9 a.m. a public video/telephonic and in-person hearing was held at Gerald Thomas Hall Auditorium (Rm 194), New Mexico State University, located at 940 College Drive in Las Cruces, NM 88003. On Thursday, August 6, 2026, at 9 a.m. an in-person hearing was held at the CNM Workforce Training Center located at 5600 Eagle Rock Ave, NE in Albuquerque, NM 87113.

The Rulemaking Notice was published in the New Mexico Register on June 23, 2026. Notice was provided to the Sunshine Portal, in the Santa Fe New Mexican (both English and Spanish), the Albuquerque Journal, The Las Cruces Sun News, and the NMDA website. Notification and the proposed rule were sent to the New Mexico Economic Development's Small Business Regulatory Advisory Commission and to Legislative Council Service. NMDA has not received findings from either. Notice of public hearings was also sent to pesticide licensed individuals and businesses impacted by the amendments; to the Pest Management Association, a state industry organization representing licensed pesticide applicators; and to the Household Consumer Product Association, a national industry organization representing pesticide manufacturers.

The hearing officer provided the following information for my consideration. I agree with the hearing officer's recommendation and thereby recommend the following for your consideration.

Hearing Officer's Report

This memorandum serves as a summary of the hearings conducted on August 4 and 6, 2026. The information is presented for your review and to assist you in formulating a recommendation to the New Mexico State University Board of Regents regarding the adoption of the proposed repeal and replacement of the M-44 Capsules and the Livestock Protection Collar Rule, Title 21, Chapter 17, Part 57 of the New Mexico Administrative Code.

Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: clarification of prospective licensee qualifications; and records and usage requirements updated to address product label inconsistencies.

Given the extensive outreach that was done and the absence of public comments, it is my recommendation that the proposed repeal and replacement of 21.17.57 NMAC be adopted without changes.

References:

Section 76-1-2C NMSA 1978, authorizes the board of regents of New Mexico State University, relative to the New Mexico Department of Agriculture, the authority to adopt and file in compliance with the State Rules Act [Chapter 14, Article 4 NMSA 1978], regulations as may be necessary to carry out its duties.

Prior Approvals:

Agenda Item Approved By:

Each office may determine required signatures (if any). All items should be routed through the President's Office, University General Counsel, or the Secretary of NMDA as appropriate.



9/15/2026

_____ _____

Jeff M. Witte Date
Director/Secretary

RULEMAKING PACKET- BOARD OF REGENTS

M-44 Capsules and the Livestock Protection Collar

NMDA
New Mexico Department of Agriculture

Official Record

New Mexico Department of Agriculture

Repeal and Replace 21.17.57 NMAC

NMDA Rulemaking

October 1, 2026

NMDA
New Mexico Department of Agriculture

NMDA Rulemaking
21.17.57 NMAC

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Director/Secretary Recommendation Memo

NEW MEXICO DEPARTMENT OF AGRICULTURE
Office of the Director/Secretary
MSC 3189
New Mexico State University
P.O. Box 30005
Las Cruces, NM 88003-8005
Phone: (575) 649-0505

September 10, 2026

MEMORANDUM

TO: New Mexico State University Board of Regents

FROM: Jeff M. Witte, Director/Secretary

SUBJECT: Recommendation to Adopt the Hearing Officer's Recommendation
RE: New Mexico Department of Agriculture Hearings on Proposed Repeal and Replacement of the M-44 Capsules and the Livestock Protection Collar Rule, Title 21, Chapter 17, Part 57 of the New Mexico Administrative Code (21.17.57 NMAC) (Attached)

BACKGROUND INFORMATION

The New Mexico Department of agriculture (NMDA) held two hearings regarding the proposed repeal and replacement of 21.17.57 NMAC, M-44 Capsules and the Livestock Protection Collar. On Tuesday, August 4, 2026, at 9 a.m. a public video/telephonic and in-person hearing was held at Gerald Thomas Hall Auditorium (Rm 194), New Mexico State University, located at 940 College Drive in Las Cruces, NM 88003. On Thursday, August 6, 2026, at 9 a.m. an in-person hearing was held at the CNM Workforce Training Center located at 5600 Eagle Rock Ave, NE in Albuquerque, NM 87113.

The Rulemaking Notice was published in the New Mexico Register on June 23, 2026. Notice was provided to the Sunshine Portal, in the Santa Fe New Mexican (both English and Spanish), the Albuquerque Journal, The Las Cruces Sun News, and the NMDA website. Notification and the proposed rules were sent to the New Mexico Economic Development's Small Business Regulatory Advisory Commission and to Legislative Council Service. NMDA has not received findings from either. Notice of public hearings was also sent to pesticide licensed individuals and businesses impacted by the amendments; to the Pest Management Association, a state industry organization representing licensed pesticide applicators; and to the Household Consumer Product Association, a national industry organization representing pesticide manufacturers.

The hearing officer provided the following information for my consideration. I agree with the hearing officer's recommendation and thereby recommend the following for your consideration.

HEARING OFFICER'S REPORT

This memorandum serves as a summary of the hearings conducted on August 4 and 6, 2026. The information is presented for your review and to assist you in formulating a recommendation to the New Mexico State University Board of Regents regarding the adoption of the proposed repeal and replacement of the M-44 Capsules and the Livestock Protection Collar Rule, Title 21, Chapter 17, Part 57 of the New Mexico Administrative Code.

Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: clarification of prospective licensee qualifications; and records and usage requirements updated to address product label inconsistencies.

Given the extensive outreach that was done and the absence of public comments, it is my recommendation that the proposed repeal and replacement of 21.17.57 NMAC be adopted without changes.

Initial Proposed Rule

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
[12/1/1996; 21.17.57.1 NMAC - Rn & A, 21 NMAC 17.57.1, 5/29/2009]
[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.
[5/16/1991; 12/1/1996; 21.17.57.2 NMAC - Rn, 21 NMAC 17.57.2, 5/29/2009]

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.
[5/16/1991; 21.17.57.3 NMAC - Rn, 21 NMAC 17.57.3, 5/29/2009]

21.17.57.4 DURATION: Permanent.
[12/1/1996; 21.17.57.4 NMAC - Rn, 21 NMAC 17.57.4, 5/29/2009]

21.17.57.5 EFFECTIVE DATE: [~~December 1, 1996~~] April 01, 2027, unless a different date is cited at the end of a section or paragraph.
[12/1/1996; 21.17.57.5 NMAC - Rn, 21 NMAC 17.57.5, 5/29/2009]

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.
[5/16/1991; 12/1/1996; 21.17.57.6 NMAC - Rn, 21 NMAC 17.57.6, 5/29/2009]

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.
[5/16/1991; 12/1/1996; 21.17.57.7 NMAC - Rn, 21 NMAC 17.57.7, 5/29/2009]

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.
[5/16/1991; 12/1/1996; 21.17.57.8 NMAC - Rn, 21 NMAC 17.57.8, 5/29/2009]

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, [~~a permanent employee of 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.

[5/16/1991; 12/1/1996; 21.17.57.9 NMAC - Rn, 21 NMAC 17.57.9, 5/29/2009]

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 [~~use restriction No. 7 of the M-44 use restriction bulletin~~] 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; [~~and~~]

(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)** the number of M-44 devices placed;~~

~~**(2)** the location of each M-44 device placed;~~

~~**(3)** the dates of each M-44 device placement, inspection or removal;~~

~~**(4)** the number and location of each M-44 device which have been discharged and the apparent reason for the discharge;~~

~~**(5)** number and species of animal(s) taken; and~~

~~**(6)** all suspected poisonings of humans, domestic animals or non-target wild animals resulting from the use of M-44 capsules.~~]

(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 NMAC 21.17.50.10.

[5/16/1991; 12/1/1996; 21.17.57.10 NMAC - Rn, 21 NMAC 17.57.10, 5/29/2009]

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 [~~800-432-5310~~] 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.

[5/16/1991; 12/1/1996; 21.17.57.11 NMAC - Rn, 21 NMAC 17.57.11, 5/29/2009]

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]

Final Adopted Rule

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
[12/1/1996; 21.17.57.1 NMAC - Rn & A, 21 NMAC 17.57.1, 5/29/2009]
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21.17.57.2 SCOPE: This rule shall apply to all persons using, selling or distributing M-44 capsules or livestock protection collars.
[5/16/1991; 12/1/1996; 21.17.57.2 NMAC - Rn, 21 NMAC 17.57.2, 5/29/2009]

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[5/16/1991; 21.17.57.3 NMAC - Rn, 21 NMAC 17.57.3, 5/29/2009]

21.17.57.4 DURATION: Permanent.
[12/1/1996; 21.17.57.4 NMAC - Rn, 21 NMAC 17.57.4, 5/29/2009]

21.17.57.5 EFFECTIVE DATE: April 01, 2027, unless a different date is cited at the end of a section or paragraph.
[12/1/1996; 21.17.57.5 NMAC - Rn, 21 NMAC 17.57.5, 5/29/2009]

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[5/16/1991; 12/1/1996; 21.17.57.6 NMAC - Rn, 21 NMAC 17.57.6, 5/29/2009]

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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.
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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.
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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.

[5/16/1991; 12/1/1996; 21.17.57.9 NMAC - Rn, 21 NMAC 17.57.9, 5/29/2009]

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;

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(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;

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(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 NMAC 21.17.50.10.

[5/16/1991; 12/1/1996; 21.17.57.10 NMAC - Rn, 21 NMAC 17.57.10, 5/29/2009]

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.

[5/16/1991; 12/1/1996; 21.17.57.11 NMAC - Rn, 21 NMAC 17.57.11, 5/29/2009]

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]

Hearing Officer Recommendation Memo

NEW MEXICO DEPARTMENT OF AGRICULTURE
Office of the Director/Secretary
MSC 3189
New Mexico State University
P.O. Box 30005
Las Cruces, NM 88003-8005
Phone: (575) 649-0505

September 4, 2026

MEMORANDUM

TO: Director/Secretary Jeff M. Witte

FROM: Les Owen, Deputy Director – Hearing Officer

SUBJECT: Hearing Officer Report – RE: New Mexico Department of Agriculture Hearing on Proposed Repeal and Replacement of 21.17.57 NMAC, M-44 Capsules and the Livestock Protection Collar.

BACKGROUND INFORMATION

The New Mexico Department of agriculture (NMDA) held two hearings regarding the proposed repeal and replacement of 21.17.57 NMAC, M-44 Capsules and the Livestock Protection Collar. On Tuesday, August 4, 2026, at 9 a.m. a public video/telephonic and in-person hearing was held at Gerald Thomas Hall Auditorium (Rm 194), New Mexico State University, located at 940 College Drive in Las Cruces, NM 88003. On Thursday, August 6, 2026, at 9 a.m. an in-person hearing was held at the CNM Workforce Training Center located at 5600 Eagle Rock Ave, NE in Albuquerque, NM 87113.

The Rulemaking Notice was published in the New Mexico Register on June 23, 2026. Notice was provided to the Sunshine Portal, in the Santa Fe New Mexican (both English and Spanish), the Albuquerque Journal, The Las Cruces Sun News, and the NMDA website. Notification and the proposed rules were sent to the New Mexico Economic Development's Small Business Regulatory Advisory Commission and to Legislative Council Service. NMDA has not received findings from either. Notice of public hearings was also sent to pesticide licensed individuals and businesses impacted by the amendments; to the Pest Management Association, a state industry organization representing licensed pesticide applicators; and to the Household Consumer Product Association, a national industry organization representing pesticide manufacturers.

The hearing officer provides the following information for consideration by NMDA's director/secretary.

SUMMARY OF PRIMARY PROPOSED RULE CHANGES

Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: clarification of prospective licensee qualifications; and records and usage requirements updated to address product label inconsistencies.

See Exhibit 1 for the strikethrough version of 21.17.57 NMAC, M-44 Capsules and the Livestock Protection Collar and Exhibit 2 for the rule with integrated changes that these hearings cover.

PUBLIC COMMENT

There were 8 virtual and 1 in-person participants at the hearing held in Las Cruces and 5 in-person at the Albuquerque hearing. No public comments, written or oral, were received at either location or online.

HEARING OFFICER'S CONCLUSION

This memorandum serves as a summary of the hearings conducted on August 4 and 6, 2026. The information is presented for your review and to assist you in formulating a recommendation to the New Mexico State University Board of Regents regarding the adoption of the proposed repeal and replacement of the M-44 Capsules and the Livestock Protection Collar Rule, Title 21, Chapter 17, Part 57 of the New Mexico Administrative Code.

Given the extensive outreach that was done and the absence of public comments, it is my recommendation that the proposed repeal and replacement of 21.17.57 NMAC be adopted without changes.

Please contact me if you have any questions.

EXHIBIT 1

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
[12/1/1996; 21.17.57.1 NMAC - Rn & A, 21 NMAC 17.57.1, 5/29/2009]
[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.
[5/16/1991; 12/1/1996; 21.17.57.2 NMAC - Rn, 21 NMAC 17.57.2, 5/29/2009]

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.
[5/16/1991; 21.17.57.3 NMAC - Rn, 21 NMAC 17.57.3, 5/29/2009]

21.17.57.4 DURATION: Permanent.
[12/1/1996; 21.17.57.4 NMAC - Rn, 21 NMAC 17.57.4, 5/29/2009]

21.17.57.5 EFFECTIVE DATE: [~~December 1, 1996~~] April 01, 2027, unless a different date is cited at the end of a section or paragraph.
[12/1/1996; 21.17.57.5 NMAC - Rn, 21 NMAC 17.57.5, 5/29/2009]

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.
[5/16/1991; 12/1/1996; 21.17.57.6 NMAC - Rn, 21 NMAC 17.57.6, 5/29/2009]

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.
[5/16/1991; 12/1/1996; 21.17.57.7 NMAC - Rn, 21 NMAC 17.57.7, 5/29/2009]

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.
[5/16/1991; 12/1/1996; 21.17.57.8 NMAC - Rn, 21 NMAC 17.57.8, 5/29/2009]

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, [~~a permanent employee of 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.

[5/16/1991; 12/1/1996; 21.17.57.9 NMAC - Rn, 21 NMAC 17.57.9, 5/29/2009]

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 [~~use restriction No. 7 of the M-44 use restriction bulletin~~] 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; [~~and~~]

(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)** the number of M-44 devices placed;~~

~~**(2)** the location of each M-44 device placed;~~

~~**(3)** the dates of each M-44 device placement, inspection or removal;~~

~~**(4)** the number and location of each M-44 device which have been discharged and the apparent reason for the discharge;~~

~~**(5)** number and species of animal(s) taken; and~~

~~**(6)** all suspected poisonings of humans, domestic animals or non-target wild animals resulting from the use of M-44 capsules.~~]

(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 NMAC 21.17.50.10.

[5/16/1991; 12/1/1996; 21.17.57.10 NMAC - Rn, 21 NMAC 17.57.10, 5/29/2009]

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 [~~800-432-5310~~] 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.

[5/16/1991; 12/1/1996; 21.17.57.11 NMAC - Rn, 21 NMAC 17.57.11, 5/29/2009]

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]

EXHIBIT 2

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
[12/1/1996; 21.17.57.1 NMAC - Rn & A, 21 NMAC 17.57.1, 5/29/2009]
[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.
[5/16/1991; 12/1/1996; 21.17.57.2 NMAC - Rn, 21 NMAC 17.57.2, 5/29/2009]

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.
[5/16/1991; 21.17.57.3 NMAC - Rn, 21 NMAC 17.57.3, 5/29/2009]

21.17.57.4 DURATION: Permanent.
[12/1/1996; 21.17.57.4 NMAC - Rn, 21 NMAC 17.57.4, 5/29/2009]

21.17.57.5 EFFECTIVE DATE: April 01, 2027, unless a different date is cited at the end of a section or paragraph.
[12/1/1996; 21.17.57.5 NMAC - Rn, 21 NMAC 17.57.5, 5/29/2009]

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.
[5/16/1991; 12/1/1996; 21.17.57.6 NMAC - Rn, 21 NMAC 17.57.6, 5/29/2009]

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.

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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.
[5/16/1991; 12/1/1996; 21.17.57.7 NMAC - Rn, 21 NMAC 17.57.7, 5/29/2009]

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.
[5/16/1991; 12/1/1996; 21.17.57.8 NMAC - Rn, 21 NMAC 17.57.8, 5/29/2009]

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

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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.

[5/16/1991; 12/1/1996; 21.17.57.9 NMAC - Rn, 21 NMAC 17.57.9, 5/29/2009]

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;

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(3) the number of LPCs sold or transferred;

(4) the serial number of each LPC; and

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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;

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(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;

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

(8) current inventory of M-44 devices;

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[5/16/1991; 12/1/1996; 21.17.57.10 NMAC - Rn, 21 NMAC 17.57.10, 5/29/2009]

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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.

[5/16/1991; 12/1/1996; 21.17.57.11 NMAC - Rn, 21 NMAC 17.57.11, 5/29/2009]

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]

Hearing Transcript - August 4, 2026

New Mexico Department of Agriculture

Rulemaking Public Hearing

Moderated by Les Owen, Deputy Director NMDA

Tuesday, August 4, 2026

9:05 a.m.

Gerald Thomas Hall Auditorium

940 College Drive, Room 194

Las Cruces, NM 88003

Reported by: Ryan Auten

JOB NO: 8263995

A P P E A R A N C E S

List of Attendees:

Les Owen, Deputy Director NMDA

Stephen Baca, Assistant Director - Agricultural Environmental Services

Ryan Hiles, Assistant Director - Agricultural Environmental Services

Tony Marquez, Director of Information Technology - New Mexico Department of Agriculture

Teri Cates, Owner TLC Pest Control, VP - New Mexico Pest Management Association

C. Benevidez, Attendee (by videoconference)

Courtenay, Attendee (by videoconference)

Kyleigh Serna, Attendee (by videoconference)

Micah Meyer, Attendee (by videoconference)

N. Busse, Attendee (by videoconference)

T. Thompson, Attendee (by videoconference)

Tyler Leslie, Rehm's Nursery (by videoconference)

Veronica, Attendee (by videoconference)

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 following rules: Japanese Beetle Exterior Quarantine, 21.27.27 [sic] of the New Mexico Administrative Code; Control of Wood Destroying Pests, 21.17.51 of the New Mexico Administrative Code; Continuing Education Units for Pesticide Applicators, 21.17.53 of the New Mexico Administrative Code; Restricted-Use Pesticides, 21.17.56 of the New Mexico Administrative Code; and M-44 Capsules in the Livestock Protection Collar, 21.17.57 of the New Mexico Administrative Code. Additionally, this hearing will address the proposed amendments to the Pesticides Rule 21.17.50 of the New Mexico Administrative Code.

My name is Les Owen. I am the deputy director for 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 rules and procedural steps were made available as you walked in.

The day and date is Tuesday, August 4, 2026, and the time is approximately 9:05 a.m. This

hearing is being held in person and virtually via internet link in New Mexico State University's Gerald Thomas Hall Auditorium, located at 940 College Drive, Las Cruces, New Mexico. This is the published date, time, and location for this hearing.

In accordance to state law, public notices for this hearing were published as follows: The New Mexico Register published June 23, 2026; Las Cruces Sun News, June 23, 2026; the Santa Fe, New Mexican, June 23, 2026, in English and Spanish; and the Albuquerque Journal, June 23, 2026. Notices were also published -- were also posted on New Mexico Department of Agriculture's website, New Mexico Sunshine Portal, and made available at New Mexico Department of Agriculture's main office in Las Cruces.

Additionally, notifications were sent to the New Mexico Economic Development Small Business Regulatory Advisory Commission for comment and to Legislative Counsel Service. Copies of the proposed replacement rules and amended rule were made available on New Mexico Department of Agriculture's website.

This hearing is being recorded and either a transcript of today's hearing or the recording will be available from New Mexico Department of Agriculture's website. Following a summary of

major points within each proposed six rules, the public will be provided with an opportunity to permit -- to present testimony. Testimony should be relevant to the proposed rules or amendments.

The first of six rules addressed in this hearing is the proposed repeal and replacement of the Japanese Beetle Exterior Quarantine Rule. Mr. Hiles will now provide a summary of proposed primary points included in the rule.

MR. HILES: Good morning. I am Ryan Hiles, an assistant division director with the New Mexico Department of Agriculture. The Japanese Beetle Exterior Quarantine Rule, 21.17.27 of the New Mexico Administrative Code, was promulgated under the authority of the Pest Control Act 76.6.1 of New Mexico Statutes to address risks associated with importing Japanese beetle into New Mexico through the importation of plant/nursery stock.

Extensive proposed amendments to the Japanese beetle exterior quarantine rule necessitated the repeal and replacement of the existing rule. Major points addressed include additional definitions for clarification purposes, requirement for nurseries exporting plants to New Mexico to comply with restrictions outlined in New Mexico Department of

Agriculture-issued compliance agreement, expansion of quarantined areas to include all U.S. states and specific Canadian provinces, requirements for smaller pots containing non-gramineous nursery stock to be treated prior to export to New Mexico, and provide states a pathway to include multiple nurseries to be covered under one compliance agreement.

MR. OWEN: Thank you, Mr. Hiles.

As of August 1, 2026, the New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Japanese Beetle Exterior Quarantine.

For those of you in the room, please raise your hand and wait until I call on you. For those participating through Zoom, please use the "Raise Hand" feature, and you will be -- you will then be unmuted. Begin your comment by stating your name and affiliation for the record. Your comment should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

Is there anyone else wishing to comment?

Seeing none, I will close the public

oral comment period for the proposed Japanese Beetle Exterior Quarantine Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website.

The second rule addressed during this hearing is the proposed repeal and replacement of the Control of Wood Destroying Pests rule. Mr. Baca will present a summary of major points contained in this proposed replacement rule.

MR. BACA: Good morning. I am Steve Baca, an assistant division director with New Mexico Department of Agriculture. The Control of Wood Destroying Pests Rule, 21.17.51 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.4.1-39 of

New Mexico Statutes to address regulatory requirements related to pesticide applicators involved in the control of wood-destroying pests.

Although amendments to the existing Control of Wood Destroying Pests Rule are few, format updates necessitated the repeal and replacement of the existing rule. Major points addressed in the proposed rule include updating, noting that not all termiticides are restricted-use products, alignment of terms with those used in the Pesticide Control Act, and clarification of license types that require supervision while applying pesticide -- insecticides.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Control of Wood Destroying Pests Rule.

For those of you in the room, please raise your hand and wait until I call on you. For those participating through Zoom, please use the raise your hand feature, and you will be unmuted. Begin your comment by stating your name and affiliation for the record. Your comment should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

Is there anyone else wishing to comment?

Seeing none, I will close the -- the public oral comment period for the proposed Wood Destroying Pests Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website.

The third rule addressed in this hearing is the proposed repeal and replacement of the Continuing Education Units for Pesticide Applicators Rule. Mr. Baca will present a summary of major points contained in this proposed replacement rule.

MR. BACA: I'm Steve Baca, an assistant

division director with the New Mexico Department of Agriculture. The Continuing Education Units for Pesticide Applicators Rule, 21.17.53 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.1.4 1-39 [sic] of the New Mexico Statutes to address Environmental Protection Agency-required updates relevant to continuing education requirements for pesticide applicators.

Extensive proposed changes and format updates necessitated a repeal and replacement process for this rule. Major points proposed in the replacement rule include definition updates, clarification of continuing education units approval process, addition of Environmental Protection Agency mandated re-certification requirements, and addition of new environmental protection agency pesticide applicator categories.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed continuing education units for pesticide applicators rule.

For those of you in the room, please

raise your hand and wait until I call on you. For those participating through Zoom, please use the raise your hand feature, and you will be unmuted. Begin your comment by stating your name and affiliation for the record. Your comments should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments. Yes.

MS. CATES: [Unintelligible response.]

MR. OWEN: Great. Thank you.

Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Continuing Education Units for Pesticide Applicators Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be

available from New Mexico Department of Agriculture's website.

Oh.

UNIDENTIFIED SPEAKER: Now if you use this microphone, he should be able to hear you.

MS. CATES: My name is Teri Cates. I am the owner-operator of TLC Pest Control, as well as the current vice president of New Mexico Pest Management Association and the State Policy Affairs Representative for the industry -- the pest control industry in the state of New Mexico. I'm here today to support the rule change, as it is much needed and long overdue.

MR. OWEN: Great. Thank you.

The fourth rule addressed in this hearing is the proposed repeal and replacement of the Restricted-Use Pesticides Rule. Mr. Baca will present a summary of major points contained in the proposed rule replacement.

MR. BACA: I'm Steve Baca, an assistant division director with New Mexico Department of Agriculture. The Restricted-Use Pesticides Rule, 21.17.56 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.4.1-39 of New Mexico Statutes to

address regulations relevant to the purchase, sale, use, and record retention of restricted-use pesticides.

Although proposed amendments to the existing Restricted-Use Pesticide Rule are few, format updates necessitated the repeal and replacement of the current rule. The major point addressed in the proposed rule is a revision of pesticide records requirements to ensure compliance with Environmental Protection Agency mandates.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed Restricted-Use Pesticides Rule.

For those of you in the room, please raise your hand and wait till I call on you. For those participating through Zoom, please use the "Raise Hand" feature, and you will be unmuted. Begin your comments by stating your name and affiliation for the record. Your comments should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

Okay. Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Restricted-Use Pesticides Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website.

The fifth rule addressed in this hearing is the proposed repeal and replacement of the M-44 and the Livestock Protection Collar Rule. Mr. Baca will present a summary of major points contained in the proposed replacement rule.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture. The M-44 and the Livestock Protection -- Protection Collar Rule, 21.17.57 of the

New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.4.1-39 of New Mexico Statutes to address regulations relevant to the purchase, sale, use, accident reporting, and record retention of M-44s and livestock protection collars.

Although proposed amendments to the existing M-44 and the Livestock Protection Collar Rule are few, format updates necessitated the repeal and replacement of the existing rule. Major points addressed in the proposed replacement rule include clarification of prospective license -- licensee qualifications, updating of records requirements, and harmonization of rule language with product labels.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed M-44 and Livestock Protection Collar Rule.

For those of you in the room, please raise your hand and wait until I call on you. For those participating through Zoom, please use the "Raise Hand" feature, and you will be unmuted. Begin your comment by stating your name and affiliation for

the record. Your comments should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed M-44 and -- and the Livestock Protection Collar Rule. Written comments will be accept until -- accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website.

The last rule addressed in this hearing are proposed amendments to the Pesticides Rule. Mr. Baca will present a summary of major points contained in the proposed rule amendments.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture. The Pesticides Rule, 21.17.50 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.4.1-39 of New Mexico Statutes to address regulations relevant to the sale of pesticides, purchase, use, licensing, and record requirements by commercial pesticide applicators and individuals using restricted-use pesticides, and identifying pesticide applicator licensing categories.

The majority of proposed amendments to the Pesticides Rule are Environmental Protection Agency-mandated updates. These updates include changes in examination requirements, record requirement enhancements, new pesticide applicator categories, and minimum age establishment for applicators.

Additionally, proposed amendments include general language cleanup, increase in minimal insurance requirements, definition updates, and clarification to operators' training permits.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received no written

comments. We'll now open the floor for comments directed at the proposed Pesticides Rule.

For those of you in the room, please raise your hand and I will -- and wait until I call on you. For those participating through Zoom, please use the "Raise Hand" feature, and you will be unmuted. Begin your comment by stating your name and affiliation for the record. Your comments should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

MS. CATES: My name is Teri Cates. I'm the owner-operator at TLC Pest Control, and I'm also the vice president of New Mexico Pest Management Association and the State Policy Affairs Representative for the industry. I am here on behalf of myself and my association to support all the rule changes, as they are much needed and long overdue.

MR. OWEN: Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Pesticides Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at

the main Las Cruces office.

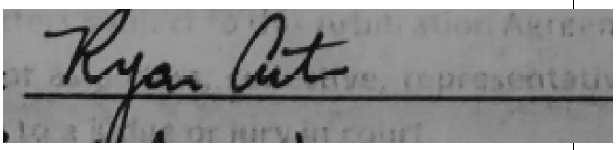
All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be available from the New Mexico Department of Agriculture's website.

The time is 9:21 a.m. I will now close this public hearing that addressed amendments to or the repeal and replacement of six New Mexico Department of Agriculture pesticide or plant pest-related rules. Thank you.

(Whereupon, at 9:21 a.m., the proceeding was concluded.)

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.



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

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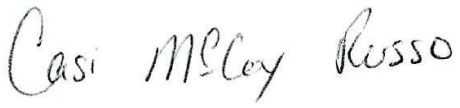
I, CASI MCCOY RUSSO, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor 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.



CASI MCCOY RUSSO

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Hearing Transcript - August 6, 2026

New Mexico Department of Agriculture

Pesticides Rulemaking Hearing

Moderated by Les Owen, Deputy Director

Thursday, August 6, 2026

9:00 a.m.

Central New Mexico Community College Workforce Training Center

5600 Eagle Rock Avenue Northeast

Albuquerque, NM 87113

Reported by: James Cogswell

JOB NO: 8264010

A P P E A R A N C E S

List of Attendees:

Les Owen, Deputy Director, New Mexico Department of Agriculture

Ryan Hiles, Assistant Division Director, New Mexico Department of Agriculture

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

Tim Darden, New Mexico Department of Agriculture

Nathan Abrahamson, New Mexico Department of Agriculture

Maria Rocha-Hall, New Mexico Department of Agriculture

Candie Sweetser, New Mexico Department of Agriculture

Alan Feuer, Attendee

Kyleigh Serna, Attendee

Dixie Mussaw, Attendee

Chris Benavidez, Attendee

John Crowley, Attendee

Bradley Lewis, New Mexico Department of Agriculture

P R O C E E D I N G S

MR. OWEN: We're ready? Okay. Good morning. At this time, we will start the hearing that addresses the proposed repeal and replacement of the following rules: Japanese Beetle Exterior Quarantine, 21.27.27 of the New Mexico Administrative Code. Control of Wood Destroying Pest, 21.17.51 of the New Mexico Administrative Code.

Continuing Education Units for Pesticide Applicators, 21.17.53 of the New Mexico Administrative Code. Restricted-Use Pesticides, 21.17.56 of the New Mexico Administrative Code. And M-44 Capsules and the Livestock Protection Collar, 21.17.57 of the New Mexico Administrative Code.

Additionally, this hearing will address the proposed amendments to the Pesticides Rule 21.17.50 of the New Mexico Administrative Code. My name is Les Owen. I am the deputy director for 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 rules and procedural steps were made available as you walked in. The day and date is Thursday, August 6th, and the

time is approximately 9:05 a.m.

This hearing is being held in person at the CNM Workforce Training Center located at 5600 Eagle Rock Avenue, Albuquerque, New Mexico. This is the published date, time, and location for this hearing.

In accordance to state law, public notices for this hearing were published as follows: The New Mexico Register, published June 23, 2026, Las Cruces Sun-News, June 23, 2026, The Santa Fe New Mexican, June 23, 2026, in English and Spanish, and the Albuquerque Journal, June 23, 2026.

Notices were also posted at the New Mexico Department of Agriculture's website and the New Mexico Sunshine Portal and made available at New Mexico Department of Agriculture's main office in Las Cruces.

Additionally, notifications were sent to the New Mexico Economic Development's Small Business Regulatory Advisory Commission for comment and to Legislative Counsel Service. Copies of the proposed replacement rules and amended rule were made available on New Mexico Department of Agriculture's website.

Written comments will be accepted until

5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office. Following a summary of major points within each proposed six rules, the public will be provided with an opportunity to present testimony.

Testimony should be relevant to the proposed rules or amendments. The first of six rules addressed in this hearing is the proposed repeal and replacement of the Japanese Beetle Exterior Quarantine Rule. Mr. Hiles will now provide a summary of proposed primary points included in the rule.

MR. HILES: Good morning. I am Ryan Hiles, an assistant division director with the New Mexico Department of Agriculture.

The Japanese Beetle Exterior Quarantine Rule 21.17.27 of the New Mexico Administrative Code was promulgated under the authority of the Pest Control Act 76.6.1 of New Mexico statutes to address risks associated with importing Japanese beetle into New Mexico through the importation of plant nursery stock.

Extensive proposed amendments to the Japanese Beetle Exterior Quarantine Rule necessitated the repeal and replacement of the existing rule.

Major points addressed include: additional definitions for clarification purposes.

Requirements for nurseries exporting plants to New Mexico to comply with the restrictions outlined in New Mexico Department of Agriculture issued compliance agreement. Expansion of quarantined areas to include all U.S. States and specific Canadian provinces.

Requirements for smaller pots containing non-gramineous nursery stock to be treated prior to export to New Mexico. And provide states a pathway to include multiple nurseries to be covered under one compliance agreement.

MR. OWEN: Thank you, Mr. Hiles.

As of August 6, 2026, New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Japanese Beetle Exterior Quarantine. Please raise your hand and wait until I call on you. Begin your comment by stating your name and affiliation for the record.

Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments. We have a microphone up here for anybody that would like to comment.

Yes, sir. If you'll please just come up to this microphone so that we can capture it.

MR. CROWLEY: Thank you for listening. Am I on? Okay. Thank you for listening. I'm John Crowley, and I'm a sales rep for Monrovia Growers. You -- I know this is a little heavy-handed as any agriculture department or any government entity is. You can't, like, say, "Oh, you get a by."

But as I've expressed in emails to the NMDA, it's hard to prove that ghosts don't exist. Monrovia Growers and many other growers have areas that are clean. And the way the rules or regulations are proposed, it's almost like go out there and trap.

And we don't want -- we really don't want to trap because it -- the traps you have us using in Oregon -- they do have us using those in Oregon already. That's a requirement. And we're compliant with that. That's easily done. That Oregon nursery is in an agricultural area. It isn't in a residential area. So that's easily done.

The -- none of us here, nobody in this room wants to bring Japanese beetles in. But the gramineous plants that you're requiring, those are basically woody landscape ornamentals. I can think of, like, pampus grass, maiden grass. And I can't

understand.

Maybe that's the USDA recommendation instead of -- and NMDA is just using that or -- or piggybacking with that. I don't know. But gramineous plants, I don't understand how that can be. I understand turf and then we're getting into gramineous, bluegrass, Kentucky Bluegrass. I get that.

But when it comes to woody ornamentals, which are a lot of ornamental grasses, you're really cutting down on a plant that people use here as a standalone, looks great in the gravel, not a heavy water user, drought tolerant, looks great. So I think that we -- I'd like to see us revisit that.

Also, the size container, you had mentioned be treated in there, some plants being treated. I don't know what that all entails, whether you're going to require us to start treating them with, like, Talstar or something prior to shipping. That's a little scary because you don't want to hit it with a chemical.

Then put it on the back of the truck, seal the door, and let it ride for six days with no sunshine. Then open it up and see what you got. You can understand that. So please work with us on that

and let us know. We're spending a lot of money up in Oregon to treat for them. We don't have any Japanese beetles up there.

We're -- I see the traps when I'm up there. So I think that if it's a clean nursery, a little less heavy-handed on the container size. You know, let's -- let's look at those. And I -- I think that might be a piggyback again with the USDA. Am I correct; Ryan?

MR. HILES: So for clean nurseries, that's going to -- the options in the proposed rule allow for clean nurseries to be excluded from the treatment requirements if need be.

MR. CROWLEY: Ah. Okay.

MR. HILES: So that's going to be --

MR. CROWLEY: I see. That -- yeah.

MR. HILES: Yes.

MR. CROWLEY: That was -- that was unclear. Thank you for the clarification there.

MR. HILES: No problem.

MR. CROWLEY: But it does seem a -- it's cutting back on a lot of the income of these garden centers that are running clean operations, just like Monrovia, you know, Osuna, Plant World. These places that are, you know, not Bob's cheap shop and

not -- the mass merchants are the ones that scare me the most.

So I'd really like some kind of -- you know, I saw it in California there aren't any bugs, but that's the only place I can ship my ornamental grasses from now. You've nixed me out of Oregon, you nixed me out of Georgia. But the only place I can ship them is California.

Now with this, you're going to nix me out of -- out of California next September 27th, I think -- or September of '27. It gets to the point, it's like, good golly. If you knew how much you cut my income by knocking me out of 15 and 10 gallon crape myrtles out of Georgia, you would be -- it -- it wouldn't -- anyway, it wasn't fun. It's not pleasant.

So I really -- we don't want Japanese beetle, but we feel it's a little heavy-handed from the New Mexico Department of Agriculture. Thank you.

MR. OWEN: Thank you.

Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Japanese Beetle Exterior Quarantine Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be

submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The second rule to be addressed during this hearing is the proposed repeal and replacement of the Control of Wood Destroying Pests Rule.

Mr. Baca will present a summary of major points contained in this proposed replacement rule.

MR. BACA: Good morning. I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture.

The Control of Wood Destroying Pests, Rule 21.17.51 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act, 76.4.1-39 of New Mexico statutes to

address regulatory requirements related to pesticide applicators involved in the control of wood-destroying pests.

Although proposed amendments to the existing Control of Wood Destroying Pest Rules are few, format updates necessitated the repeal and replacement of the existing rule. Major points addressed in the proposed rule include: update noting that not all termiticides are restricted use products.

Alignment of terms with those used in the Pesticide Control Act. And clarification of license types that require supervision while applying insecticides.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Control of Wood Destroying Pests Rule. Please raise your hand and wait until I call on you. Begin your comment by stating your name and affiliation for the record.

Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments. Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Wood Destroying Pests Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The third rule addressed in this hearing is the proposed repeal and replacement of the Continuing Education Units for Pesticide Applicators Rule.

Mr. Baca will present a summary of major points contained in the proposed replacement rule.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture.

The Continuing Education Units for

Pesticide Applicators Rule 21.17.53 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act, 76.4.1-39 of New Mexico statutes to address Environmental Protection Agency required updates relevant to Continuing Education Requirements for Pesticide Applicators.

Extensive proposed changes and format updates necessitated a repeal and replacement process for this rule. Major points proposed in the replacement rule include: definition updates, clarification of continuing education units approval process, addition of Environmental Protection Agency mandated recertification requirements.

And addition of new environmental protection agency pesticide applicator categories.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received no written comments. We'll now open the floor for comments directed at the proposed Continuing Education Units for Pesticide Applicators Rule. Please raise your hand and wait until I call on you.

Begin your comments by stating your name and affiliation for the record. Your comments

should be limited to the contents of the proposed rule. At this time, I will begin accepting comments.

Yes, sir.

MR. FEUER: Good morning. My name is Alan Feuer. I am a certified applicator in the State of New Mexico, license number 61155.

Did you get all that?

THE REPORTER: Yeah.

MR. FEUER: It's good enough?

I've held licensure in the state of New Mexico since 1989. I'm licensed in the Categories 7A, B, C, D, 3A, and 3B, six categories. I come up here today to speak in complete and total favor of the upgrade to the testing and certifications and recertification rules. This is far overdue.

It has been unfair for decades that only one category in our entire licensure circumstances required any sort of continuing education for operator servicemen. And this rectifies quite a bit of that. So thank you for the changes that have been made.

MR. OWEN: Thank you.

Is there anyone else wishing to comment?

Seeing none, I will close the public

oral comment period for the proposed Continuing Education Units for Pesticide Applicators Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The fourth rule addressed in this hearing is the proposed repeal and replacement of the Restricted-Use Pesticides Rule.

Mr. Baca will present a summary of major points contained in the proposed replacement rule.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture.

The Restricted-Use Pesticides Rule 21.17.56 of the New Mexico Administrative Code was

promulgated under the authority of the Pesticide Control Act 76.4.1-39 of New Mexico statutes to address regulations relevant to the purchase, sale, use, and record retention of Restricted Use Pesticides.

Although proposed amendments to the existing Restricted-Use Pesticides Rule are few, format updates necessitated the repeal and replacement of the current rule. The major point addressed in the proposed rule is a revision of pesticide records requirements to ensure compliance with Environmental Protection Agency mandates.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed Restricted-Use Pesticides Rule. Please raise your hand and wait until I call on you.

Begin your comment by stating your name and affiliation for the record. Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments. Is there anyone wishing to comment?

Seeing none, I will close the public

oral comment period for the proposed Restricted-Use Pesticide Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The fifth rule addressed in this hearing is the proposed repeal and replacement of the M-44 and Livestock Protection Collar Rule.

Mr. Baca will present a summary of major points contained in the proposed replacement rule.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture.

The M-44 and the Livestock Protection Collar Rule 21.17.57 of the New Mexico Administrative Code was promulgated under the authority of the

Pesticide Control Act 76.4.1-39 of New Mexico statutes to address regulations relevant to the purchase, sale, use, accident reporting, and record retention of M-44s and Livestock Protection Collars.

Although proposed amendments to the existing M-44 and the Livestock Protection Collar Rule are few, the format updates necessitated the repeal and replacement of the existing rule.

Major points proposed in the replacement rule include: clarification of prospective licensee qualifications, updating of records requirements, and harmonization of rule language with product labels.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed M-44 and Livestock Protection Collar Rule. Please raise your hand and wait until I call on you. Begin your comment by stating your name and affiliation for the record.

Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments. Is there anyone wishing to comment?

Seeing none, I will close the public oral comment period for the proposed M-44 and Livestock Protection Collar Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The last rule addressed in this hearing are proposed amendments to the Pesticides Rule. Mr. Baca will present a summary of major points contained in the proposed rule amendments.

MR. BACA: I am Steve Baca, an assistant division director with New Mexico Department of Agriculture.

The Pesticides Rule 21.17.50 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act, 76.4.1-39 of

New Mexico statutes to address regulations relevant to the sale of pesticides, purchase, use, licensing, and record requirements by commercial pesticide applicators and individuals using restricted use pesticides.

And identifying pesticide applicator licensing categories. The majority of proposed amendments to the Pesticide Rule are Environmental Protection Agency mandated updates.

These updates include: changes in examination requirements, record requirement enhancements, new pesticide applicator categories, and minimum age establishment for applicators.

Additionally, proposed amendments include: general language cleanup, increase in minimal insurance requirements, definition updates, and clarification to operator's training permits.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Pesticide Rule. Please raise your hand and wait until I call on you. Begin your comment by stating your name and affiliation for the record.

Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments.

Yes, sir.

MR. FEUER: Thank you. My name is Alan Feuer. I'm a commercial applicator, license number 61155, in six categories in the state of New Mexico. I rise to explain -- or to state my support for these changes.

MR. OWEN: Thank you.

Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed amendments to the Pesticides Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording

will be available from New Mexico Department of Agriculture's website.

The time is 9:23 a.m. I will now close this public hearing that addressed amendments to or the repeal and replacement of six New Mexico Department of Agriculture pesticide or plant pest related rules. Thank you.

(Whereupon, the meeting concluded at 9:23 a.m.)

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.



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

CERTIFICATE OF TRANSCRIBER

I, MARY SACKETT, 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.



MARY SACKETT

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New Mexico Rules of Civil Procedure for the

District Courts

Article 5, Rule 1-030

(e) Review by Witness; Changes; Signing. If requested by the deponent or a party before completion of the deposition, the deponent shall have thirty (30) days after being notified by the officer that the transcript or recording is available in which to review the transcript or recording and, if there are changes in form or substance, to sign a statement reciting such changes and the reasons given by the deponent for making them. The officer shall indicate in the certificate prescribed by Subparagraph (1) of Paragraph F of this rule whether any review was requested and, if so, shall append any changes made by the deponent during the period allowed.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE STATE RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored

in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

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Exhibits

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the New Mexico Department of Agriculture (NMDA) proposes to repeal and replace the following: 21.17.27 NMAC, JAPANESE BEETLE EXTERIOR QUARANTINE; 21.17.51 NMAC, CONTROL OF WOOD DESTROYING PESTS; 21.17.53 NMAC, CONTINUING EDUCATION UNITS FOR PESTICIDE APPLICATORS; 21.17.56, NMAC RESTRICTED-USE PESTICIDES; and 21.17.57 NMAC, M-44 AND THE LIVESTOCK PROTECTION COLLAR. NMDA proposes amending 21.17.50 NMAC, PESTICIDES.

PURPOSE AND SUMMARY OF PRIMARY PROPOSED RULE CHANGES:

21.17.27 NMAC, JAPANESE BEETLE EXTERIOR QUARANTINE
Extensive amendments necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: additional terms added to the definition section to clarify regulatory requirements; scope of Japanese beetle (JB) quarantined areas expanded from 36 states to all U.S. states and specific Canadian provinces; scope of regulated articles expanded to include additional nursery stock items; compliance agreements (issued by NMDA) required for shipment of regulated articles into New Mexico; departments of agriculture in originating states provided options to petition NMDA for areawide or single-nursery compliance agreements; treatment requirements clarified for shipment of regulated articles into New Mexico; exceptions from compliance agreement requirements provided for small (under 10-inch container diameter) non-gramineous nursery stock; and requirement for small (under 10-inch container diameter) non-gramineous nursery stock to be treated and accompanied by a phytosanitary certificate for shipment into New Mexico.

21.17.51 NMAC, CONTROL OF WOOD DESTROYING PESTS
Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: removal of restricted use statement to reflect that not all termiticides are restricted use products; alignment of terms with those in the Pesticide Control Act, 76.4.18 et. seq. NMSA 1978; and clarification of license types that require direct supervision of employees applying pesticides.

21.17.53 NMAC, CONTINUING EDUCATION UNITS FOR PESTICIDE APPLICATORS
Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: updates to definitions; clarification of Continuing Education Unit approval process; addition of Environmental Protection Agency mandated recertification requirements, including the number of Continuing Education Units required for all applicator categories.

21.17.56 NMAC, RESTRICTED-USE PESTICIDES
Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: updates to language and revision of additional pesticide dealer record requirements to comply with Environmental Protection Agency.

21.17.57 NMAC, M-44 AND THE LIVESTOCK PROTECTION COLLAR
Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: clarification of prospective licensee qualifications; and records and usage requirements updated to address product label inconsistencies.

21.17.50 NMAC, PESTICIDES
Amendments are primarily directed at updating pesticide applicator requirements to comply with federal Environmental Protection Agency laws including: pesticide applicator examination requirements; enhanced dealer record requirements; minimum age requirements for pesticide applicator licensees (18 years old); and addition of new pesticide applicator categories. General cleanup of rule language included definition updates and increase in minimum insurance coverage requirements.

STATUTORY AUTHORITY (Rule 21.17.27 NMAC)**:** Granted to the Board of Regents of New Mexico State University under the Pest Control Act, Chapter 76, Article 6, Sections 1 through 9 NMSA 1978 Compilations. **(**Rules 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC, and 21.17.50 NMAC)**:** 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 Compilations.

Copies of the Notice of Proposed Rulemaking and the proposed rules (including any technical information) are available by electronic download from the New Mexico Department of Agriculture website (https://nmdeptag.nmsu.edu) and are also available at the department's office, located at 1050 Stewart Street, Las Cruces, NM.

Tuesday, August 4, 2026, at 9 a.m., NMDA will host a public hearing that may be attended in person, by video conference, or by telephone. The hearing will take place at the Gerald Thomas Hall Auditorium (Room 194) on the campus of New Mexico State University, located at 940 College Drive, Las Cruces, NM. The hearing will include repeal and replacement, and or amendments to rules 21.17.27 NMAC, 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC and 21.17.50 NMAC.

Join the hearing via **video conference** Tuesday, August 4, 2026, at 9:00 a.m.:
Meeting URL: https://nmsu.zoom.us/j/87014463854
Meeting ID: 870 1446 3854
Or
Join the hearing via **phone** Tuesday, August 4, 2026, at 9:00 a.m.:
Phone: 1 669 900 6833 or 1 719 359 4580
Meeting ID: 870 1446 3854

Thursday, August 6, 2026 at 9 a.m., NMDA will host a public, in-person hearing at the CNM Workforce Training Center, located at 5600 Eagle Rock Ave NE, Albuquerque, NM. The hearing will include repeal and replacement, and or amendments to rules 21.17.27 NMAC, 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC, and 21.17.50 NMAC.

Oral and written comments will be accepted at the hearings from members of the public and interested parties. Written comments will be accepted until August 6, 2026, at 5:00 p.m. Comments may be submitted via email to 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

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/Secretary of Agriculture will consider all oral comments and will review all timely submitted written comments and responses.

AVISO DE PROPUESTA DE REGLAMENTACIÓN

POR LA PRESENTE SE NOTIFICA que el Departamento de Agricultura de Nuevo México (NMDA) propone derogar y reemplazar las siguientes normas: 21.17.27 NMAC, CUARENTENA EXTERIOR CONTRA EL ESCARABAJO JAPONÉS; 21.17.51 NMAC, CONTROL DE PLAGAS QUE DESTRUYEN LA MADERA; 21.17.53 NMAC, UNIDADES DE EDUCACIÓN CONTINUA PARA APLICADORES DE PLAGUICIDAS; 21.17.56 NMAC, PLAGUICIDAS DE USO RESTRINGIDO; y 21.17.57 NMAC, M-44 Y EL COLLAR DE PROTECCIÓN PARA GANADO. El NMDA propone modificar la norma 21.17.50 NMAC, PLAGUICIDAS.

PROPÓSITO Y RESUMEN DE LOS PRINCIPALES CAMBIOS PROPUESTOS A LA REGLAMENTACIÓN:

21.17.27 NMAC, CUARENTENA EXTERIOR CONTRA EL ESCARABAJO JAPONÉS
La necesidad de realizar modificaciones extensas requirió la derogación y el reemplazo de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: incorporación de términos adicionales en la sección de definiciones para aclarar los requisitos reglamentarios; ampliación del alcance de las áreas bajo cuarentena por el escarabajo japonés (JB, por sus siglas en inglés), pasando de 36 estados a todos los estados de EE. UU. y provincias canadienses específicas; ampliación del alcance de los artículos regulados para incluir productos adicionales de vivero; exigencia de acuerdos de cumplimiento (emitidos por el NMDA) para el envío de artículos regulados a Nuevo México; otorgamiento de opciones a los departamentos de agricultura de los estados de origen para solicitar al NMDA acuerdos de cumplimiento a nivel de área o para viveros individuales; aclaración de los requisitos de tratamiento para el envío de artículos regulados a Nuevo México; establecimiento de excepciones a los requisitos de acuerdo de cumplimiento para plantas de vivero pequeñas (en contenedores de menos de 10 pulgadas de diámetro) que no sean gramíneas; y requisito de que las plantas de vivero pequeñas (en contenedores de menos de 10 pulgadas de diámetro) que no sean gramíneas sean tratadas y vayan acompañadas de un certificado fitosanitario para su envío a Nuevo México.

21.17.51 NMAC, CONTROL DE PLAGAS QUE DESTRUYEN LA MADERA
Los requisitos de actualización de formato hicieron necesaria la derogación y el reemplazo de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: eliminación de la declaración de uso restringido para reflejar que no todos los termiticidas son productos de uso restringido; alineación de los términos con los de la Ley de Control de Pesticidas (*Pesticide Control Act*), secciones 76.4.18 y siguientes de la NMSA 1978; y aclaración de los tipos de licencia que requieren supervisión directa de los empleados que aplican pesticidas.

21.17.53 NMAC, UNIDADES DE EDUCACIÓN CONTINUA PARA APLICADORES DE PESTICIDAS
Los requisitos de actualización de formato hicieron necesaria la derogación y sustitución de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: actualizaciones de definiciones; aclaración del proceso de aprobación de las Unidades de Educación Continua; e incorporación de los requisitos de recertificación exigidos por la Agencia de Protección Ambiental (EPA), incluido el número de Unidades de Educación Continúa requerido para todas las categorías de aplicadores.

21.17.56 NMAC, PESTICIDAS DE USO RESTRINGIDO
Los requisitos de actualización de formato hicieron necesaria la derogación y sustitución de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: actualizaciones en la redacción y revisión de los requisitos adicionales de registro para distribuidores de pesticidas, a fin de cumplir con las disposiciones de la Agencia de Protección Ambiental (EPA).

21.17.57 NMAC, M-44 Y EL COLLAR DE PROTECCIÓN PARA GANADO
Los requisitos de actualización de formato hicieron necesaria la derogación y sustitución de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: aclaración de los requisitos para los futuros titulares de licencias; y actualización de los requisitos de registro y uso para abordar las inconsistencias en las etiquetas de los productos.

21.17.50 NMAC, PESTICIDAS
Las modificaciones se centran principalmente en actualizar los requisitos para aplicadores de pesticidas a fin de cumplir con las leyes federales de la Agencia de Protección Ambiental (EPA), incluyendo: requisitos de examen para

aplicadores de pesticidas; requisitos reforzados de registro para distribuidores; requisitos de edad mínima para los titulares de licencias de aplicador de pesticidas (18 años); e incorporación de nuevas categorías de aplicadores de pesticidas. Se realizó una revisión general de la redacción de la norma que incluyó actualizaciones de definiciones y un aumento en los requisitos mínimos de cobertura de seguro.

AUTORIDAD LEGAL (Norma 21.17.27 NMAC): Otorgada a la Junta de Regentes de la Universidad Estatal de Nuevo México (*New Mexico State University*) en virtud de la Ley de Control de Plagas (*Pest Control Act*), Capítulo 76, Artículo 6, Secciones 1 a 9 de la Compilación NMSA 1978. AUTORIDAD LEGAL (Reglas 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC y 21.17.50 NMAC): Otorgada a la Junta de Regentes de la Universidad Estatal de Nuevo México (New Mexico State University) en virtud de la Ley de Control de Pesticidas de Nuevo México (New Mexico Pesticide Control Act), Capítulo 76, Artículo 4, Secciones 1 a 39, Compilaciones NMSA 1978.

Se pueden obtener copias del Aviso de Propuesta de Reglamentación y de las reglas propuestas (incluida cualquier información técnica) mediante descarga electrónica desde el sitio web del Departamento de Agricultura de Nuevo México (https://nmdeptag.nmsu.edu); también están disponibles en la oficina del departamento, ubicada en 1050 Stewart Street, Las Cruces, NM.

El martes 4 de agosto de 2026, a las 9:00 a. m., el NMDA celebrará una audiencia pública a la que se podrá asistir en persona, por videoconferencia o por teléfono. La audiencia tendrá lugar en el auditorio Gerald Thomas Hall (Sala 194) del campus de la New Mexico State University, ubicado en 940 College Drive, Las Cruces, NM. La audiencia abordará la derogación y sustitución, y/o las modificaciones de las normas 21.17.27 NMAC, 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC y 21.17.50 NMAC.

Participe en la audiencia por **videoconferencia** el martes 4 de agosto de 2026, a las 9:00 a. m.:
URL de la reunión: https://nmsu.zoom.us/j/87014463854
ID de la reunión: 870 1446 3854
O
Participe en la audiencia por **teléfono** el martes 4 de agosto de 2026, a las 9:00 a. m.:
Teléfono: 1 669 900 6833 o 1 719 359 4580
ID de la reunión: 870 1446 3854

El jueves 6 de agosto de 2026, a las 9:00 a. m., el NMDA celebrará una audiencia pública presencial en el CNM Workforce Training Center, ubicado en 5600 Eagle Rock Ave NE, Albuquerque, NM. La audiencia abordará la derogación y sustitución, y/o las modificaciones de las normas 21.17.27 NMAC, 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC y 21.17.50 NMAC.

En las audiencias se aceptarán comentarios orales y escritos por parte del público y de las partes interesadas. Se aceptarán comentarios por escrito hasta el 6 de agosto de 2026 a las 5:00 p.m. Los comentarios pueden enviarse por correo electrónico a comments@nmda.nmsu.edu o presentarse enviando copias originales a:

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

NECESIDADES ESPECIALES: Si usted es una persona con discapacidad que necesita un lector, un amplificador, un intérprete de lengua de señas cualificado o cualquier otra forma 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 tan pronto como sea posible.

El Director/Secretario de Agricultura tomará en cuenta todos los comentarios orales y revisará todos los comentarios y respuestas por escrito presentados dentro del plazo establecido.

ARTICLE 4
Pesticide Control

76-4-1. Title.

This act [76-4-1 to 76-4-39 (except 76-4-20.1) NMSA 1978] may be cited as the "Pesticide Control Act."

History: 1953 Comp., § 45-25-1, enacted by Laws 1973, ch. 366, § 1.

ANNOTATIONS

Compiler's notes. — Laws 1973, ch. 366, which originally enacted the Pesticide Control Act, is presently compiled as 76-4-1 to 76-4-20, 76-4-21 to 76-4-28, 76-4-30 to 76-4-39 NMSA 1978. Laws 1992, ch. 25, § 1 enacted 76-4-9.1 NMSA 1978 as part of the Pesticide Control Act.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 55.

Exterminator's tort liability for personal injury or death directly resulting from operations, 29 A.L.R.4th 987.

Anticompetitive covenants: aerial spray dust business, 60 A.L.R.4th 965.

Federal pre-emption of state common-law products liability claims pertaining to pesticides, 101 A.L.R. Fed. 887.

76-4-2. Enforcing agency.

The Pesticide Control Act shall be administered and enforced by the state department of agriculture, under the direction of the board of regents, New Mexico state university.

History: 1953 Comp., § 45-25-2, enacted by Laws 1973, ch. 366, § 2.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 20, 21.

3 C.J.S. Agriculture §§ 8 to 24.

76-4-3. Definitions.

As used in the Pesticide Control Act:

A. "equipment" means any type of ground, water or aerial equipment, device or contrivance using motorized, mechanical or pressurized power to apply any pesticide on land and anything that may be growing,

habitating or stored on or in such land, but does not include any pressurized hand-sized household device used by a homeowner to apply a pesticide or any equipment, device or contrivance of which the person who is applying the pesticide on the person's own land is the source of power or energy in making the pesticide application;

B. "board" means the board of regents of New Mexico state university;

C. "department" means the New Mexico department of agriculture;

D. "device" means any instrument or contrivance other than a firearm that is intended for trapping, destroying, repelling or mitigating any pest or any other form of plant or animal life, other than humans and other than bacteria, viruses or other microorganisms on or in any living thing other than plants, but does not include equipment used for the application of pesticides when sold separately therefrom, or traps used to control predators or rodents or sterilization using dry heat or steam;

E. "distribute" means to offer for sale, hold for sale, sell, barter or supply in this state;

F. "environment" includes water, air and land and all plants and every living thing in water, in air and on land and the existing interrelationships;

G. "insect" means any of the numerous small invertebrate animals belonging principally to the class insecta, including beetles, bugs, bees, flies, and to other allied classes of arthropods, including spiders, mites, ticks, millipedes, centipedes and sowbugs;

H. "ingredient statement" means a statement that contains the name and percentage of each ingredient of any pesticide that is intended for one of the purposes under Paragraphs (1) through (4) of Subsection N of this section, and the total percentage of all ingredients in the pesticide not for one of those purposes. If the pesticide contains arsenic in any form, the ingredient statement shall contain a statement of the percentages of total and water-soluble arsenic, calculated as elemental arsenic;

I. "label" means the written, printed or graphic matter on or attached to the pesticide or device or any of its containers or wrappers;

J. "labeling" means all labels and all other written, printed or graphic matter accompanying the pesticide or device at any time; or to which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the department, the United States environmental protection agency, United States departments of agriculture, the interior and health and human services, state agricultural universities and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides;

K. "land" means all land and water areas, including air space, and all living things and all structures, buildings, contrivances and machinery appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation;

L. "person" has the extended meaning ascribed to it in Subsection E of Section 12-2A-3 NMSA 1978;

M. "pest" means any living organism injurious to other living organisms, except humans, viruses, bacteria or other microorganisms in or on other living organisms other than plants, that the board by rule declares to be a pest;

N. "pesticide" means any substance or mixture of substances intended for:

(1) preventing, destroying, repelling or mitigating any pest;

(2) causing the leaves or foliage to drop from a plant, with or without causing abscission;

(3) artificially accelerating the drying of plant tissue; or

(4) accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior, of ornamental or crop plants or the produce thereof, through physiological action, but not including substances that are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants or soil amendments;

O. "pesticide dealer" means any person who distributes highly toxic pesticides, restricted use pesticides or both, which pesticides are restricted by rule to distribution only by licensed pesticide dealers;

P. "pest management consultant" means any individual who offers or supplies technical advice or makes recommendations to the user of highly toxic pesticides, restricted use pesticides or both, which pesticides are restricted by rule to distribution only by licensed pesticide dealers;

Q. "registrant" means a person who has registered any pesticide pursuant to the provisions of the Pesticide Control Act;

R. "restricted use pesticide" means any pesticide or device designated by the board as requiring specific restrictions to prevent unreasonable adverse effects on the environment, including humans, beneficial insect predators and parasites, pollinating insects, animals, crops, wildlife and lands but excluding the pests the pesticide or device is intended to prevent, destroy, control or mitigate;

S. "unreasonable adverse effects on the environment" means an unreasonable risk to humans or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide;

T. "noncommercial applicator" means a person who uses or demonstrates restricted use pesticides and does not qualify as a private applicator and is not required to have a commercial applicator's license;

U. "private applicator" means a certified applicator who uses or supervises the use of any pesticide that is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by the certified applicator or the certified applicator's employer or on the property of another person if applied without compensation other than trading of personal services between producers of agricultural commodities;

V. "public applicator" means a certified applicator who as an employee of a federal, state, county or municipal agency or municipal corporation uses any pesticide that is classified for restricted use or any general use pesticide, when applied to sites or under conditions identified by rule promulgated by the board; and

W. "commercial applicator" means a certified applicator, whether or not the certified applicator is a private applicator with respect to some uses, who for compensation uses or supervises the use of any pesticide for any purpose on any property other than as provided by Sections 76-4-19 and 76-4-20.1 NMSA 1978.

History: 1953 Comp., § 45-25-3, enacted by Laws 1973, ch. 366, § 3; 1979, ch. 394, § 1; 2009, ch. 101, § 1; 2009, ch. 109, § 1.

ANNOTATIONS

The 2009 amendment, effective June 19, 2009, in Subsection L, changed the reference from Section 12-2-2 NMSA 1978 to Section 12-2A-3 NMSA 1978; in Subsection V, after "restricted use", deleted "only by

certified applicators or persons under their direct supervision" and added the remainder of the sentence; and in Subsection W, added the reference to Section 76-4-19 NMSA 1978.

Laws 2009, ch. 101, § 1 and Laws 2009, ch. 109, § 1 enacted identical amendments to this section. The section was set out as amended by Laws 2009, ch. 109, § 1. *See* 12-1-8 NMSA 1978.

76-4-4. Misbranded.

A pesticide or device is misbranded if:

A. its labeling bears any statement, design or graphic representation relative thereto or to its ingredients which is false or misleading;

B. it is contained in a package or other container or wrapping which does not conform to the standards established by the board;

C. it is an imitation of or is distributed under the name of another pesticide or device;

D. any word, statement or other information, required by the Pesticide Control Act or regulations adopted thereunder to appear on the label or labeling, is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or graphic matter in the labeling), and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

E. the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product was intended and if complied with, together with any requirements imposed by the Pesticide Control Act and regulations adopted by the board, are adequate to prevent injury to plants and animals including man, and protect against any unreasonable adverse effects on the environment;

F. the labeling bears any reference to registration under the provisions of the Pesticide Control Act unless such reference is required by regulations adopted pursuant to the Pesticide Control Act;

G. the label does not bear:

(1) the name and address of the producer, registrant or person for whom produced;

(2) the name, brand or trademark under which the pesticide is distributed;

(3) an ingredient statement on that part of the immediate container and on the outside container or wrapper, if there be one through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of purchase. However, the department may permit the ingredient statement to appear prominently on some other part of the container, if the size or form of the container makes it impracticable to place the ingredient statement on the part which is presented or displayed under customary conditions of purchase;

(4) directions for use and a warning or caution statement which are necessary and which, if complied with, would be adequate for the protection of health and protection against injury to plants and animals including man and protection against any unreasonable adverse effects on the environment;

(5) the net weight or measure of the contents;

(6) the registration number assigned the pesticide and the registration number of the person formulating the pesticide by the United States environmental protection agency; and

(7) a statement of the use classification under which the product is registered, if required by federal or state regulations;

H. the pesticide contains any substance or substances in quantities highly toxic to man, as determined by the board unless the label bears, in addition to any other matter required by the Pesticide Control Act:

(1) the skull and crossbones or any other symbol required for registration by the United States environmental protection agency;

(2) the word "POISON" prominently printed in red on a background of distinctly contrasting color; and

(3) a statement of an antidote or practical treatment in case of poisoning by the pesticide;

I. the pesticide container does not bear a label or if the label does not contain all the information required by the Pesticide Control Act and the regulations adopted pursuant to the act, or both;

J. the label for a spray adjuvant fails to state the type or function of the functioning agents; or

K. the label is not printed in English and Spanish, as prescribed by the United States environmental protection agency and by regulations of the board.

History: 1953 Comp., § 45-25-4, enacted by Laws 1973, ch. 366, § 4.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 55.

76-4-5. Prohibited acts.

A. It is unlawful for any person to distribute within the state, to deliver for transportation or transport in intrastate commerce, or between points within this state through any point outside this state, or use any of the following:

(1) any pesticide which has not been registered in accordance with the Pesticide Control Act or regulations adopted pursuant to that act;

(2) any pesticide if any of the claims made for it or any of the directions for its use or other labeling differs from the representations made in connection with its registration, or if the composition as represented in connection with its registration, differs. However, at the discretion of the department, a change in the labeling of a pesticide except changes in the ingredient statement may be made within a registration period without requiring reregistration of the product if the change will not have unreasonable adverse effects on the environment;

(3) any pesticide, unless it is in the unbroken immediate container of the registrant or manufacturer and there is affixed to the container, and to the outside container or wrapper of the retail package, if there is

one through which the required information on the immediate container cannot be clearly read, a label bearing information required in the Pesticide Control Act and the regulations adopted pursuant to that act;

(4) any pesticide which has not been colored or discolored as required by the Pesticide Control Act;

(5) any pesticide which does not meet the professed standard of quantity or quality, as expressed on the labeling under which it is sold, or in which any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent has been wholly or in part abstracted or if any contaminated is misbranded or is present in an amount determined by the department to be a hazard;

(6) any device which is misbranded; or

(7) any pesticide in containers violating regulations adopted pursuant to the Pesticide Control Act, or pesticides found in damaged containers which constituted a hazard to the environment.

B. It is unlawful:

(1) to distribute a restricted use pesticide to any person who is required by law or regulations promulgated pursuant to the Pesticide Control Act to have a permit to use or purchase restricted use pesticides, unless the person or his agent, to whom sale or delivery is made, has a valid permit to use or purchase the kind and quantity of the restricted use pesticide. However, subject to conditions established by the department, such permit may be obtained from any person designated by the department immediately prior to distribution;

(2) for any person to detach, alter, deface or destroy, wholly or in part, any label or labeling provided for in the Pesticide Control Act or regulations adopted pursuant to that act, or to add any substance to, or take any substance from, a pesticide in a manner that may defeat the purpose of the Pesticide Control Act or the regulations adopted thereunder;

(3) for any person to use or cause to be used any restricted use pesticide contrary to directions on the label or to regulations of the board if those regulation differ from or further restrict the labeling;

(4) for any person to use for his own advantage or to reveal, other than to the department, or to the courts of the state in response to a subpoena, or to physicians, or in emergencies to pharmacists and other qualified persons for use in the preparation of a practical treatment including first aid, in case of poisoning, any information relative to formulas of products acquired by authority of the Pesticide Control Act;

(5) for any person to handle, transport, store, display, distribute or use pesticides in such a manner as to endanger man and his environment or to endanger food, feed or any other products that may be transported, stored, displayed or distributed with such pesticides; or

(6) for any person to dispose of, discard or store any pesticides or pesticide containers in a manner that may cause injury to humans, vegetation, crops, livestock, wildlife, pollinating insects or to pollute any water supply or waterway.

History: 1953 Comp., § 45-25-5, enacted by Laws 1973, ch. 366, § 5.

ANNOTATIONS

Cross references. — For penalties, *see* 76-4-34 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 42, 50, 51.

3 C.J.S. Agriculture § 87.

76-4-6. Registration.

A. Each pesticide or device that is distributed within the state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be registered with the department subject to the provisions of the Pesticide Control Act. However, the registration is not required if a pesticide is shipped from one plant or warehouse operated by the same person and used solely at such plant or warehouse as a constituent part to make a pesticide which is registered under the provisions of the Pesticide Control Act.

B. The applicant for registration shall file a statement with the board which includes:

(1) the name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant's;

(2) the name of the pesticide or device;

(3) other necessary information required for completion of the application for registration form;

(4) a complete copy of the labeling accompanying the pesticide or device and a statement of all claims including the directions and precautions for use; and

(5) the use classification of the pesticide, if required by federal or state regulations.

C. The department when it deems it necessary in the administration of the Pesticide Control Act, may require the submission of the complete formula of any pesticide including all ingredients which will prevent, destroy, repel, control or mitigate pests, or which will act as a plant regulator, defoliant, desiccant or those which act as a functioning agent in a spray adjuvant, and all ingredients which do not perform these functions.

D. The department may require a full description of the tests made and the results thereof upon which the claims are based on any pesticide, device or on any pesticide or device on which restrictions are being considered. In the case of renewal of registration, the applicant shall be required to furnish only information which is different from that furnished when the pesticide was registered or reregistered during the previous license year.

E. The board may prescribe other necessary information by regulation.

F. The applicant desiring to register a pesticide or device shall pay an annual prescribed registration fee for each pesticide or device registered.

G. Any registration approved by the department and in effect on December 31 of the year for which a renewal application has been made and the proper fee paid, shall continue in full force and effect until the department notifies the applicant that the registration has been renewed or denied in accord with the provisions of the Pesticide Control Act. Forms for reregistration shall be mailed to registrants at least thirty days prior to the due date.

H. If it appears to the department that the composition of the pesticide warrants the proposed claims for it and if the pesticide or device and its labeling and other material submitted comply with the requirements of the Pesticide Control Act, the department shall register the pesticide or device.

I. All federal, state and county agencies or municipalities shall register all pesticides or devices distributed by them but shall not be required to pay the registration fee.

History: 1953 comp., § 45-25-6, enacted by Laws 1973, ch. 366, § 6.

ANNOTATIONS

Law reviews. — For article, "An Administrative Procedure Act For New Mexico," see 8 Nat. Resources J. 114 (1968).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 42.

3 C.J.S. Agriculture §§ 95, 97.

76-4-7. Experimental use permits.

A. No person shall conduct field tests using a pesticide not registered with the department or a registered pesticide for a use not previously approved in the registration without first having obtained an experimental use permit from the department.

B. Any person may apply to the department for an experimental use permit for a pesticide. The department may issue an experimental use permit if it determines that the applicant needs the permit in order to accumulate information necessary to register a pesticide. The department may refuse to issue an experimental use permit if it determines that issuance of such permit is not warranted or that the pesticide use to be made under the proposed terms and conditions may cause unreasonable adverse effects on the environment.

C. Use of a pesticide under an experimental use permit shall be under the supervision of the department and shall be subject to the terms and conditions and be for the period of time prescribed by the department in the permit.

D. The department may revoke any experimental use permit at any time, if it finds that the terms or conditions of the permit are being violated, or that its terms and conditions are inadequate to avoid unreasonable adverse effects on the environment.

History: 1953 Comp., § 45-25-7, enacted by Laws 1973, ch. 366, § 7; 1979, ch. 394, § 2.

76-4-8. Refusal to register; cancellation; suspension.

A. If it does not appear to the department that the pesticide or device warrants the proposed claims or if the pesticide or device and its labeling and other required material do not comply with the provisions of the Pesticide Control Act or regulations adopted thereunder, the department shall notify the applicant of the manner in which the pesticide, device, labeling or other required material fails to comply with the provisions of the Pesticide Control Act and permit the applicant to make the necessary corrections. If, upon receipt of such notice, the applicant does not make the required changes, the department may refuse to register the pesticide or device.

B. The department may, when it determines that a pesticide or device or its labeling does not comply with the provisions of the Pesticide Control Act or the regulations adopted thereunder, cancel the registration of a pesticide or device.

C. The department shall, when it determines that a situation exists in which the continued use of a pesticide during the time required for cancellation under the Pesticide Control Act would likely result in unreasonable adverse effects on the environment, suspend on their own motion, the registration or a pesticide or device.

History: 1953 Comp., § 45-25-8, enacted by Laws 1973, ch. 366, § 8.

ANNOTATIONS

Cross references. — For stop sale, use or removal order, *see* 76-4-11 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 42.

3 C.J.S. Agriculture §§ 98, 100.

76-4-9. Department to administer and enforce act; board to adopt regulations; scope of regulations.

The department shall administer and enforce the provisions of the Pesticide Control Act and regulations promulgated by the board.

A. The board may after notice and public hearing adopt regulations for carrying out the purpose and provisions of the Pesticide Control Act, including regulations providing for:

(1) declaring as a pest any form of plant or animal life or virus, other than man and other than bacteria, viruses and other microorganisms on or in living man or other living animals, which is injurious to health or the environment;

(2) designating certain pesticides to be highly toxic to any animal including man;

(3) determining standards for identifying pesticides by color, taste, odor or form;

(4) the collection and examination of devices or samples of pesticides for analysis;

(5) requiring pesticide applicators to notify land owners of property adjoining the property to be treated, or in the immediate vicinity thereof, of a proposed application of a pesticide, if such a notice is necessary to carry out the purpose of the Pesticide Control Act; and for a hearing before the director of the department of any objecting owner of property adjoining the property to be treated before the application of the pesticide;

(6) the safe handling, transportation, storage, display, distribution, use and disposal of pesticides and their containers;

(7) establishing standards with respect to the package, container or wrapping in which a pesticide is distributed;

(8) restricting or prohibiting the use of certain types of containers or packages for specific pesticides. These restrictions may apply to type of construction, strength and size or any combination thereof to alleviate danger of spillage, breakage, misuse or any other hazard to the public;

(9) procedures for making pesticide recommendation;

(10) adopting a list of restricted use pesticides for the state or for designated areas within the state;

(11) regulating the time and conditions of distribution, sale or use of the restricted use pesticides;

(12) requiring all persons issued licenses to offer technical advice, to sell or to use restricted use pesticides to maintain records as prescribed by the department;

(13) certification of private applicators;

(14) label requirements of all pesticides required to be registered under provisions of the Pesticide Control Act;

(15) regulating the labeling of devices;

(16) procedures and techniques to be used in sampling land, including agricultural products that are to be consumed by man or animals for pesticide residues;

(17) classifying pesticides for general use, restricted use or both;

(18) prescribing methods to be used in the application of pesticides where the department finds that such regulations are necessary to carry out the purpose and intent of the Pesticide Control Act. Such regulations may relate to the time, manner, methods, materials and amounts and concentrations in connection with the application of the pesticides and may restrict or prohibit use of pesticides in designated areas during specified periods of time and shall encompass all reasonable factors which the department deems necessary to prevent damage or injury by drift or misapplication to plants, including forage plants, or adjacent or nearby lands; wildlife in the adjoining or nearby areas; fish and other aquatic life in waters in reasonable proximity to the area to be treated; and humans, animals or beneficial insects. In issuing such regulations, the board shall give consideration to pertinent research findings and recommendations of other agencies of the state, the federal government or other reliable sources;

(19) requiring any pesticide use dilution to be colored or discolored if it determines that such requirement is feasible and is necessary for the protection of health and the environment;

(20) establishing good pesticide use and handling practices for commercial pesticide applicators;

(21) establishing requirements for supervision of servicemen of structural pest control applicators; and

(22) regulating false or misleading advertisement in the sales or use of pesticides and devices.

B. The board shall adopt regulations that are consistent with regulations of the New Mexico environmental improvement board, the New Mexico water quality control commission and the laws administered by the regulations of the United States environmental protection agency.

C. The department is authorized to specify the quantities and concentrations of restricted use pesticides that may be applied.

History: 1953 Comp., § 45-25-9, enacted by Laws 1973, ch. 366, § 9; 1979, ch. 394, § 3.

ANNOTATIONS

Law reviews. — For article, "Constitutional Limitations on the Exercise of Judicial Functions by Administrative Agencies," see 7 Nat. Resources J. 599 (1967).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 20, 21.

3 C.J.S. Agriculture § 96.

76-4-9.1. State preemption.

Except as otherwise authorized in the Pesticide Control Act, no city, county or other political subdivision of the state and no home rule municipality shall adopt or continue in effect any ordinance, rule, regulation or statute regarding the registration, labeling, distribution, sale, handling, use, application, transportation or disposal of pesticides.

History: Laws 1992, ch. 25, § 1.

ANNOTATIONS

Effective dates. — Laws 1992, ch. 25 contained no effective date provision, but, pursuant to N.M. Const., art IV, § 23, was effective on May 20, 1992.

76-4-10. Sampling and examination of pesticides or devices; residue analysis.

A. The sampling and examination of pesticides or devices shall be made under the direction of the department for the purpose of determining if they comply with the requirements of the Pesticide Control Act.

B. The sampling of land, including agricultural products that are to be consumed by man or animals, may be made by the department to determine if pesticide residues are present that will cause unreasonable adverse effects on the environment or if the residues exceed the tolerance established by the United States environmental protection agency, New Mexico environmental improvement agency [department of environment] or restrictions established by other federal or state regulatory agencies.

History: 1953 Comp., § 45-25-10, enacted by Laws 1973, ch. 366, § 10.

ANNOTATIONS

Bracketed material. — The bracketed material was inserted by the compiler and is not part of the law.

The environmental improvement agency was abolished by Laws 1977, ch. 253, § 5. Section 4 of that act established the health and environment department, consisting of several divisions, including the environmental improvement division. Section 14 of that act provided that all references in law to the agency shall be construed to be references to the environmental improvement division. Laws 1991, ch. 25, § 4

established the department of environment and provided that all references to the environmental improvement division of the health and environment department shall be construed to mean the department of environment.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 53.

3 C.J.S. Agriculture § 99.

76-4-11. "Stop sale, use or removal" order.

When the department has reasonable cause to believe a pesticide or device is being distributed, used, stored or transported in violation of any of the provisions of the Pesticide Control Act or regulations adopted pursuant thereto, the department may issue and serve a written "stop sale, use or removal" order upon the owner or custodian of the pesticide or device. If the owner or custodian is not available to receive the order, the department may attach the order to the pesticide or device and notify the registrant. The pesticide or device shall not be distributed, used or removed until the provisions of the Pesticide Control Act have been complied with and the pesticide or device has been released in writing under conditions specified by the department or the alleged violation has been otherwise disposed of as provided in the Pesticide Control Act by a court of competent jurisdiction.

History: 1953 Comp., § 45-25-11, enacted by Laws 1973, ch. 366, § 11.

ANNOTATIONS

Cross references. — For judicial action after stop sale, use or removal order, *see* 76-4-12 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 42.

76-4-12. Judicial action after "stop sale, use or removal" order.

A. After service of a "stop sale, use or removal" order is made upon any person, that person or the registrant or the department may file an action in a court of competent jurisdiction, in the county in which a violation of the Pesticide Control Act or regulations adopted thereunder is alleged to have occurred, for an adjudication of the alleged violation. The court in such action may issue temporary or permanent injunctions, mandatory or restraining, and such intermediate orders as it deems necessary or advisable. The court may order condemnation of any pesticide or device that does not meet the requirements of the Pesticide Control Act or regulations adopted thereunder.

B. If the pesticide or device is condemned, it shall, after entry of decree, be disposed of by destruction or sale as the court directs. However, the pesticide or device shall not be sold contrary to the provisions of the Pesticide Control Act or regulations adopted thereunder. Upon payment of the costs of the condemnation proceedings and the execution and delivery of a bond as prescribed by the court to assure the pesticide or device shall not be sold or disposed of contrary to the provisions of the Pesticide Control Act or regulations adopted pursuant thereto, the court may direct that the pesticide or device be delivered to the owner thereof for relabeling, reprocessing or otherwise bringing the product into compliance.

C. When a decree of condemnation is entered against the pesticide or device, court costs, fees, storage and other proper expenses shall be awarded against the person, if any, appearing as claimant of the pesticide or device.

History: 1953 Comp., § 45-25-12, enacted by Laws 1973, ch. 366, § 12.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 42.

3 C.J.S. Agriculture § 100.

76-4-13. Pesticide dealer license.

A. It is unlawful for any person to act in the capacity of a pesticide dealer, or advertise as, or assume to act as a pesticide dealer at any time without first having obtained an annual license from the department. A license shall be required for each location or outlet located within this state from which pesticides are distributed. Any manufacturer, registrant or distributor who has no pesticide dealer outlet licensed within this state and who distributes pesticides directly into this state shall obtain a pesticide dealer license for his principal out-of-state location or outlet.

B. Application for a license shall be accompanied by the prescribed annual license fee and shall be on a form provided by the department. The application shall include:

(1) the full name and title of the person applying for the license;

(2) the address of each outlet to be licensed;

(3) the principal business address of the applicant;

(4) the name of a person domiciled in this state authorized to receive and accept service of summons and legal notices of all kinds for the applicant; and

(5) any other necessary information prescribed by the department.

C. Provisions of this section shall not apply to a licensed pesticide applicator who sells pesticides only as an integral part of his pesticide application service when the pesticides are dispensed only through an apparatus used for such pesticide application, or any federal, state or county agency, or municipality which provides pesticides only for its own programs.

D. Each pesticide dealer shall be responsible for the acts of each individual employed by him in the solicitation and sale of pesticides and all claims and recommendations for the use of pesticides. The dealer license shall be subject to denial, suspension or revocation after a hearing for any violation of the Pesticide Control Act or regulations adopted thereunder, whether committed by the dealer or by an officer, agent or employee of the dealer.

History: 1953 Comp., § 45-25-13, enacted by Laws 1973, ch. 366, § 13.

ANNOTATIONS

Cross references. — For grounds for denial, suspension or revocation of license, *see* 76-4-23 NMSA 1978.

76-4-14. Pest management consultant.

No individual shall perform services as a pest management consultant without first obtaining from the department an annual license. Application for a license shall be on a form provided by the department and shall be accompanied by the prescribed fee. Licensed pesticide applicators and operators and employees of federal, state and county agencies, or municipalities, when acting in their official capacities, shall be exempt from this licensing provision.

History: 1953 Comp., § 45-25-14, enacted by Laws 1973, ch. 366, § 14.

76-4-15. Public pest management consultant.

A "public pest management consultant" means any individual who is employed by a governmental agency or municipality to act as a pest management consultant. No person shall act as a public pest management consultant without first obtaining an annual nonfee license from the department. Application for a license shall be on a form provided by the department. The nonfee license shall be valid only when the consultant is acting in that capacity as an employee of his governmental employer. Federal and state employees whose principal responsibilities are in pesticide research shall be exempt from this licensing provision while acting in their official capacities.

History: 1953 Comp., § 45-25-15, enacted by Laws 1973, ch. 366, § 15.

76-4-16. Examinations for pest management consultant license.

The department shall require each applicant for a pest management consultant license or a public pest management consultant license to demonstrate the applicant's knowledge of pesticide laws and regulations, pesticide hazards and the safe distribution, use, application and disposal of pesticides by satisfactorily passing a written examination for the classification for which he has applied, prior to issuing his license. The prescribed examination fee shall be paid for the initial examination and other examinations needed to qualify the applicant to perform services as a pest management consultant. The public pest management consultant shall not be required to pay the examination fee and an examination shall be administered upon request.

History: 1953 Comp., § 45-25-16, enacted by Laws 1973, ch. 366, § 16.

76-4-17. Commercial pesticide applicator license.

A. It is unlawful for any person to engage in the business of applying pesticides at any time to land not owned or occupied by him without a commercial pesticide applicator license issued by the department. The commercial pesticide applicator shall pay an annual prescribed fee for each license issued. Should any apparatus fail to pass inspection making it necessary for an additional inspection to be made, the department

shall require a prescribed inspection fee. In addition to the required inspection, additional inspections may be made to determine if equipment is properly calibrated and maintained in conformance with the Pesticide Control Act and regulations adopted pursuant thereto.

B. Application for a license shall be on a form provided by the department.

C. The department shall not issue a commercial pesticide applicator license until the applicant has passed an examination to demonstrate his knowledge of how to apply pesticides under the classification or classifications he has applied for, and his knowledge of the nature and effect of pesticides he may apply. The department shall charge the prescribed examination fee for the initial examination and other examinations needed to qualify the applicant to apply pesticides.

D. The department shall renew any applicant's license under the classification for which the applicant is certified; provided that the applicant's license is not under a suspension or revocation order and he has met the provisions of the Pesticide Control Act.

E. The department shall not issue a commercial applicator license if it has been determined that:

(1) the applicant has been convicted within the last five years of a felony involving fraud;

(2) the applicant has had revoked within the last two years a previous license authorized by the Pesticide Control Act;

(3) the applicant has been unable to satisfactorily fulfill the certification requirements; or

(4) [the applicant] has had any pesticide application or a license denied, revoked or suspended in any state in the last five years.

F. All applicants for a commercial applicator license shall meet at least one of the following requirements prior to being issued a license and shall file proof of compliance as specified by the department:

(1) documentation of two years of pesticide application experience in the category or related category for which application is being made; or

(2) documentation of one year of pesticide application experience in the category or related category for which application is being made and not less than twenty college credit hours in biological or agricultural sciences.

History: 1953 Comp., § 45-25-17, enacted by Laws 1973, ch. 366, § 17; 1979, ch. 394 § 4.

ANNOTATIONS

Bracketed material. — The bracketed material was inserted by the compiler and it is not part of the law.

Cross references. — For inspection of apparatus, *see* 76-4-26 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 101.

76-4-18. Operator license.

A. It is unlawful for any individual to act as an employee of a commercial pesticide applicator and apply pesticides without having obtained an operator license from the department.

B. The department shall issue an operator license when the applicant has passed an examination to demonstrate his ability to apply pesticides safely and effectively with the type of apparatus and in the classification for which he has applied. The department shall charge the prescribed examination fee for each examination administered.

C. The provisions of this section shall not apply to any individual who is a licensed commercial pesticide applicator.

History: 1953 Comp., § 45-25-18, enacted by Laws 1973, ch. 366, § 18; 1979, ch. 394, § 5.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 101.

76-4-19. Application of act to governmental entities; public applicator's license required.

A. A public applicator shall be subject to the provisions of the Pesticide Control Act and rules adopted pursuant to that act.

B. Public applicators shall be subject to examinations or other licensing provisions as provided in the Pesticide Control Act or by rule promulgated by the board. The department shall issue a limited license without fee to the public applicator who has qualified for the license. The public applicator license shall be valid only when the applicator is acting as an applicator applying pesticides used by federal, state, county or municipal agencies or municipal corporations. Government research personnel shall be exempt from this licensing requirement only when applying general use pesticides to experimental plots.

History: 1953 Comp., § 45-25-19, enacted by Laws 1973, ch. 366, § 19; 1979, ch. 394, § 6; 2009, ch. 101, § 2; 2009, ch. 109, § 2.

ANNOTATIONS

The 2009 amendment, effective June 19, 2009, in Subsection A, at the beginning of the sentence, deleted "All state agencies, federal agencies and municipal corporations or any other governmental agency", added "A public applicator"; and at the end of the sentence, deleted "thereunder concerning the application of pesticides unless exempt under other sections of the Pesticide Control Act"; and added "pursuant that act"; in Subsection B, after "Public applicators", deleted "for agencies listed in this section"; after "examinations", added "or other licensing provisions"; added "or by rule promulgated by the board; after "applicator applying", deleted "or supervising application of restricted use"; and after "pesticides used by", deleted "such entities"; and added "federal, state, county or municipal agencies or municipal corporations".

Laws 2009, ch. 101, § 2 and Laws 2009, ch. 109, § 2 enacted identical amendments to this section. The section was set out as amended by Laws 2009, ch. 109, § 2. *See* 12-1-8 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 43.

3 C.J.S. Agriculture § 101.

76-4-20. Private applicators.

A. No private applicator shall use a restricted use pesticide without first complying with the certification requirements determined by the department as necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator or other persons.

B. In determining these certification requirements, the board shall take into consideration standards of the United States environmental protection agency. Certification requirements for a private applicator to be certified to use restricted use pesticides may include but shall not be limited to the following:

(1) the applicant shall acknowledge that he understands and will abide by the label precautions by signing a dealer's pesticide register. The register shall include the name and address of the private applicator and other information as prescribed by the department. The dealer shall keep a record of all restricted use pesticides distributed to a private applicator;

(2) the applicant shall obtain a user permit prior to purchase and use of the pesticide. The department may issue restricted use pesticide permits to private applicators who have documented the crops, location and acreage on the permit for the seasonal or temporary period for which their permit is issued. User permits shall only be issued for registered or experimental uses and shall be subject to other limitations as specified by the department. The limitations may include limiting the areas of use, the timing or method of application and limiting the amount of the pesticide to that needed to cover the acreage to be treated;

(3) the applicant shall be required to pass a written examination demonstrating his competency with respect to the use and handling of the pesticide or pesticides covered by his certification prior to purchase and use of the product; and

(4) the applicant shall be required to obtain approval from the department for each application involving a specific risk to the environment. The applicant shall submit to the department an application form for a special review permit. The application shall include detailed information on the intended use, the responsible person in charge and the equipment and conditions under which the pesticide application is to be made. The department in reviewing the application for a special review permit may require additional restrictions such as on-site inspection or supervision.

C. The department shall charge the prescribed fee for each certification.

D. If a private applicator does not qualify, the department shall inform the applicant in writing.

E. Private applicator certification shall be valid for a period of not less than three years, established by the board.

History: 1953 Comp., § 45-25-20, enacted by Laws 1973, ch. 366, § 20; 1979, ch. 394, § 7.

76-4-20.1. Noncommercial applicator license.

A. A noncommercial applicator shall not use a restricted use or state restricted use pesticide without having a valid current noncommercial applicator license issued by the department for the license use

categories and subcategories in which the pesticide application is made.

B. Application for an original or renewal license shall be on a form prescribed by the department. An annual prescribed fee shall be charged for each noncommercial applicator license issued.

C. The department shall not issue a noncommercial applicator license until the applicant has passed a written certification examination to demonstrate to the department the applicant's knowledge of how to apply pesticides under the classifications for which the applicant has applied and the applicant's knowledge of the nature and effect of pesticides the applicant may apply under such classifications.

D. The department shall renew any applicant's license under the classification for which the applicant is certified; provided that the applicant's license is not under a suspension or revocation order and the applicant has complied with the provisions of the Pesticide Control Act.

E. Nothing in this section shall imply the right to apply pesticides for hire without first having obtained a commercial applicator license.

History: Laws 1979, ch. 394, § 8; 2009, ch. 101, § 3; 2009, ch. 109, § 3.

ANNOTATIONS

The 2009 amendment, effective June 19, 2009, in Subsection A, at the beginning of the sentence, deleted the phrase "Any person who is not a private applicator, commercial applicator or public applicator, except a person working under their direct supervision" and added the phrase "A noncommercial applicator".

Laws 2009, ch. 101, § 3 and Laws 2009, ch. 109, § 3 enacted identical amendments to this section. The section was set out as amended by Laws 2009, ch. 109, § 3. *See* 12-1-8 NMSA 1978.

76-4-21. Expiration date of licenses.

The board shall set by regulation the expiration date for the annual pesticide registration or any license provided for in the Pesticide Control Act.

History: 1953 Comp., § 45-25-21, enacted by Laws 1973, ch. 366, § 21; 1979, ch. 394, § 9.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 101.

76-4-22. Fees.

A. Fees for the registration of pesticides, the various licenses, inspection of apparatuses and examination of applicants required by the Pesticide Control Act shall be set by the board not to exceed the amount authorized below:

(1) annual registration fee for each pesticide or device registered, not more than $150;

(2) annual pesticide dealer license for each location or outlet within the state or, if there is no outlet in the state, for the principal out-of-state location or outlet, not more than $100;

(3) annual pest management consultant license, not more than $100;

(4) annual commercial pesticide applicator license, not more than $100;

(5) annual operator license, not more than $75.00;

(6) annual noncommercial applicator license, not more than $100;

(7) private applicator certification or renewal, not more than $25.00;

(8) additional inspection required to certify each unit of aircraft, ground or manual equipment that fails to pass inspection, not more than. $25.00;

and

(9) examination fee for each examination needed to qualify the applicant as a pest management consultant, commercial pesticide applicator, noncommercial applicator or operator or any combination thereof, not more than $20.00;

provided that the board may index the amount of a fee for inflation until July 1, 2031 using the consumer price index for all urban consumers: all items published by the United States department of labor.

B. If the application for the renewal of a pesticide registration or any annual license provided for in the Pesticide Control Act is not filed prior to the expiration date of the prior registration or license, the fee for renewal of registration or license shall be double the amount charged for the prior registration or license and shall be paid by the applicant before the renewal registration or license is issued. Any person holding a current valid license may renew the license for the next year without taking an examination unless the department determines that additional knowledge relating to the classification for which the applicant has applied makes a new examination necessary. However, if the license is not renewed within thirty days after expiration, the licensee shall be required to take new certification examinations.

History: 1953 Comp., § 45-25-22, enacted by Laws 1973, ch. 366, § 22; 1979, ch. 394, § 10; 2005, ch. 200, § 1; 2026, ch. 13, § 3.

ANNOTATIONS

The 2026 amendment, effective July 1, 2026, authorized the board of regents of New Mexico state university to impose increases to fees up to the rate of inflation measured in the consumer price index for all urban consumers through the end of fiscal year 2031, and made conforming amendments; in Subsection A, Paragraph A(9), after the semicolon, added the remainder of the paragraph; and in Subsection B, after

"double the amount" deleted "specified in this section" and added "charged for the prior registration or license".

The 2005 amendment, effective June 17, 2005, increased the registration fees in Subsection A(1) through (7) and (9).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 95.

76-4-23. Grounds for denial, suspension or revocation of license, permit or certification; acts constituting a violation of the Pesticide Control Act.

A. The department may deny application for any license, permit or certification or may suspend any license, permit or certification when it has reason to believe that the applicant for or the holder of such license, permit or certification has violated any of the provisions of Subsection B of this section.

B. It is a violation of the Pesticide Control Act for any person to:

(1) make a false or fraudulent claim through any media which misrepresents the effect of material or methods to be used;

(2) make a pesticide recommendation or to use a pesticide in a manner inconsistent with the labeling;

(3) apply known ineffective or improper materials;

(4) operate faulty or unsafe apparatus;

(5) operate in a faulty, careless or negligent manner;

(6) refuse or, after notice, neglect to comply with the provisions of the Pesticide Control Act or the rules and regulations adopted pursuant thereto;

(7) refuse or neglect to keep and maintain the records or to make reports when and as required by the Pesticide Control Act or rules and regulations adopted pursuant thereto;

(8) make false or fraudulent records, invoices or reports;

(9) engage in the business of applying a pesticide on the land of another without having a licensed applicator or operator in direct "on-the-job" supervision;

(10) use fraud or misrepresentation in making an application for a license or renewal of a license;

(11) refuse or neglect to comply with any limitation or restriction on or in a duly issued license or permit;

(12) aid or abet a licensed or an unlicensed person to evade any provision of the Pesticide Control Act, conspire with a licensed or an unlicensed person to evade the provisions of the Pesticide Control Act or allow one's license to be used by an unlicensed person;

(13) make false or misleading statements during or after an inspection concerning any infestation or infection of pests found on land;

(14) impersonate any state, county or city inspector or official;

(15) perform the type of pest control under the conditions and in the locality in which he operates or has operated, whether or not he has previously passed an examination, when not qualified;

(16) use, or supervise the use of, a pesticide which is restricted to use by certified applicators when not qualified as a certified applicator; or

(17) make pesticide recommendations or apply pesticides without having the proper certification or license.

C. Any person who has had a license, permit or certification denied, suspended or revoked by the department may request a hearing before the department. The request for a hearing shall be made within fifteen days of receipt of a certified letter notifying him of the department's action.

History: 1953 Comp., § 45-25-23, enacted by Laws 1973, ch. 366, § 23; 1979, ch. 394, § 11.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 20.

Liability of termite or other pest control or inspection contractor for work or representations, 32 A.L.R.4th 682.

76-4-24. Surety bond or insurance required of commercial pesticide applicators.

The department shall not issue a commercial pesticide applicator license until the applicant has furnished evidence of financial responsibility with the department consisting either of a surety bond or a liability insurance policy or certification thereof, protecting persons who may suffer legal damages as a result of the operations of the applicant. However, the surety bond or liability insurance policy need not apply to damages or injury to land being worked upon by the applicant. The department shall not accept a surety bond or liability insurance policy except from authorized insurers or surplus line brokers authorized to do business in the state.

A. The amount of the surety bond or liability insurance as provided for in this section shall be set by the board. The surety bond or liability insurance shall be maintained, at a sum not less than that specified by the board, at all times during the license period. The department shall be notified ten days prior to any reduction made at the request of the applicant or cancellation of the surety bond or liability insurance by the surety or insurer. The department may accept a liability insurance policy or surety bond in the proper sum which has a deductible clause in an amount prescribed by the board. If the applicant has not satisfied the requirements of the deductible amount in any prior legal claim, such deductible clause shall not be accepted by the department unless the applicant furnishes the department with a surety bond or liability insurance which shall satisfy the amount of the deductible pertaining to all claims that may arise in his application of pesticides.

B. The applicator license shall, whenever the surety bond or insurance policy of the licensee is reduced below the requirements of the Pesticide Control Act and regulations adopted pursuant thereto, be automatically suspended until the surety bond or insurance policy again meets these requirements. The department may retrieve the license plates or decal of the licensee during the period of automatic suspension

and return them only when the licensee has furnished the department with written proof that he is again in compliance.

C. Nothing in the Pesticide Control Act shall be construed to relieve any person from liability for any damage to the person or lands of another caused by the use of pesticides, even though such use conforms to the rules and regulations of the board.

History: 1953 Comp., § 45-25-24, enacted by Laws 1973, ch. 366, § 24.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 101.

76-4-25. Damaged person must file report of loss; contents; time of filing; effect of failure to file.

A. Any person suffering a loss or damage resulting from the use or application by others of any pesticide shall file with the department a verified report of loss setting forth, so far as known to the claimant, the following:

(1) the name and address of the claimant;

(2) the type of land alleged to be injured or damaged;

(3) the name of the person applying the pesticide and allegedly responsible;

(4) the name of the owner or occupant of the property for whom the pesticide application was made; and

(5) additional information as requested by the department.

B. The report must be filed within sixty days from the time that the loss or damage becomes known to the claimant. If a growing crop is alleged to have been damaged, the report must be filed prior to harvest of fifty percent of that crop, unless the loss or damage was not then known. The department may prepare a form to be furnished to persons making a report of alleged damages. This form shall contain other requirements as the department deems necessary. The department may, upon receipt of the alleged damage report, notify the licensee and the owner or lessee of the land or other person who may be charged with the responsibility, of the damages claimed, and furnish copies of the statements as may be requested. The department shall inspect damages whenever possible, and when they determine that the complaint has sufficient merit, they shall make the information available to the person claiming damage and to the person who is alleged to have caused the damage.

C. The filing of a report or the failure to file a report need not be alleged in any complaint which might be filed in a court of law, and the failure to file the report shall not be considered any bar to the maintenance of any action.

D. The failure to file the report shall not be a violation of this act. However, if the person failing to file the report is the only one injured from the use or application of a pesticide by others, the department may, when in

the public interest, refuse to hold a hearing for the denial, suspension or revocation of a license or permit issued under the Pesticide Control Act until the report is filed.

E. Where damage is alleged to have occurred, the claimant shall permit the department, the licensee and his representatives, such as bondsman or insurer, to observe and examine the lands or nontarget organism alleged to have been damaged. Failure of the claimant to permit the observation and examination of the damaged lands shall automatically bar the claim against the licensee.

History: 1953 Comp., § 45-25-25, enacted by Laws 1973, ch. 366, § 25.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 47.

Infliction of emotional distress: toxic exposure, 6 A.L.R.5th 162.

3 C.J.S. Agriculture § 86.

76-4-26. Inspection of equipment.

A. The department shall provide for an annual inspection of any equipment used for the application of pesticides by a commercial pesticide applicator and may require repairs or other changes before the equipment is used to apply pesticides. A list of requirements that the equipment shall meet shall be provided by the department.

B. Any piece of equipment which fails inspection shall have affixed to it an out-of-order seal. The equipment shall not be put back into service until it has passed reinspection and the out-of-order seal is removed by the department. A prescribed inspection fee shall be charged for each reinspection.

History: 1953 Comp., § 45-25-26, enacted by Laws 1973, ch. 366, § 26; 1979, ch. 394, § 12.

76-4-27. License plates or decals for apparatus.

Each licensed apparatus shall be identified by a license plate or decal furnished by the department, at no cost to the licensee. The license plate or decal shall be affixed in a location and manner upon the application apparatus as prescribed by the department.

History: 1953 Comp., § 45-25-27, enacted by Laws 1973, ch. 366, § 27.

76-4-28. Farmer or rancher exemption.

Except for the use of restricted use pesticides the provisions of the Pesticide Control Act relating to licenses and requirements for their issuance shall not apply to any farmer or rancher owner of a ground or manual apparatus applying pesticides for himself or his farmer or rancher neighbors, when he:

A. operates farm or ranch property and operates and maintains pesticide application equipment primarily for his own use;

B. is not regularly engaged in the business of applying pesticides for hire amounting to a principal or regular occupation and he does not publicly solicit business as a pesticide applicator; or

C. operates his pesticide application equipment only in the vicinity of his own property and for the accommodation of his neighbors.

History: 1953 Comp., § 45-25-28, enacted by Laws 1973, ch. 366, § 28.

ANNOTATIONS

76-4-29. Repealed.

ANNOTATIONS

Repeals. — Laws 1979, ch. 394, § 15, repealed 76-4-29 NMSA 1978, as enacted by Laws 1973, ch. 366, § 29, relating to the exemption of landscape gardeners from the provisions of the Pesticide Control Act.

76-4-30. Discarding and storing of pesticides and pesticide containers.

No person shall discard, transport or distribute any pesticide or pesticide container in a manner that may cause injury to humans, vegetation, crops, livestock, wildlife or beneficial insects or pollute any waterway.

History: 1953 Comp., § 45-25-30, enacted by Laws 1973, ch. 366, § 30.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 42.

76-4-31. Access to public or private premises.

A. For the purpose of carrying out the provisions of the Pesticide Control Act, the department is authorized upon presentation of proper identification and with consent of the owner or by court order, to enter any public or private premises, in order to:

(1) inspect any apparatus subject to the Pesticide Control Act and the premises on which the apparatus is kept or stored;

(2) inspect lands actually or reported to be exposed to pesticides;

(3) inspect storage or disposal areas;

(4) inspect or investigate complaints of injury to humans or land;

(5) sample pesticides being applied or to be applied; or

(6) sample land, including agricultural products, for pesticide residues.

B. If it appears that a pesticide apparatus or device fails to comply with the provisions of the Pesticide Control Act or regulations adopted thereunder, and if the department contemplates instituting proceedings against any person, the department shall cause notice to be given to the person. Any person so notified shall be given an opportunity to present his views, either orally or in writing, with regard to the contemplated proceedings. If thereafter, in the opinion of the department, it appears that the provisions of the Pesticide Control Act or regulations adopted thereunder have been violated by the person, the department shall refer a copy of the results of the analysis or the examination of the pesticide apparatus or device to the district attorney for the county in which the violation occurred. It is the duty of the district attorney to whom any violation of the Pesticide Control Act is reported to cause appropriate proceedings to be instituted and prosecute in a court of competent jurisdiction without delay.

C. Nothing in the Pesticide Control Act shall be construed as requiring the department to report, for prosecution or the institution of condemnation proceedings, minor violations of the Pesticide Control Act when the department believes that the public interest will be best served by a notice of warning in writing.

D. Should the department be denied access to any land where access was sought for the purposes set forth in the Pesticide Control Act, they may apply to any court of competent jurisdiction for a search warrant for the purpose requested.

History: 1953 Comp., § 45-25-31, enacted by Laws 1973, ch. 366, § 31.

ANNOTATIONS

Cross references. — For inspection of apparatus, *see* 76-4-26 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 42, 50.

3 C.J.S. Agriculture § 83.

76-4-32. Classification of licenses.

A. The department may classify licenses to be issued under the Pesticide Control Act. Such classifications may include recommending pesticides to be used in or on land, including but not limited to agricultural crops, ornamentals, structures and noncrop land or to treat regulated products or equipment. If the licensee has a classified license, he shall be limited to practicing within such classification. Each classification shall be subject to separate testing procedures and requirements. No person shall be required to pay an additional license fee if he desires to be licensed in one or all of the license classifications.

B. The department may classify pesticide applicator and operator licenses to be issued under the Pesticide Control Act. the classifications may include, but not be limited to pest control operations, fumigators, ornamental or agricultural pesticide applicators or right-of-way pesticide applicators. Separate classifications may be specified for ground, aerial or manual methods used by any licensee to apply pesticides or to the use of pesticides to control pests. Each classification shall be subject to separate testing procedures and

requirements. No person shall be required to pay an additional license fee if the person desires to be licensed in one or all of the license classifications.

History: 1953 Comp., § 45-25-32, enacted by Laws 1973, ch. 366, § 32.

ANNOTATIONS

76-4-33. Records.

A. Any person issued a license or permit under the provisions of the Pesticide Control Act shall keep such records as required by regulation of the board.

B. Commercial pesticide applicators licensed under the provisions of the Pesticide Control Act shall keep such records as prescribed by regulation of the board.

C. The department shall have access to the records at any reasonable time to copy or make copies of the records for the purpose of carrying out the provisions of the Pesticide Control Act. Unless required for the enforcement of the Pesticide Control Act, the information shall be confidential and, if summarized, shall not identify any individual person.

History: 1953 Comp., § 45-25-33, enacted by Laws 1973, ch. 366, § 33.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 95.

76-4-34. Penalties.

A. Any person violating any provision or requirement of the Pesticide Control Act or regulations adopted by the board pursuant to that act is guilty of a petty misdemeanor.

B. In addition to any other penalties imposed by the Pesticide Control Act, any person who willfully or repeatedly violates any provision of that act may be assessed by the court a civil penalty not to exceed one thousand dollars ($1,000) for each violation.

C. The board may bring an action to enjoin the violation or threatened violation of any provision of the Pesticide Control Act or any regulation made pursuant thereto in a court of competent jurisdiction of the county in which the violation occurs or is about to occur.

D. The department, acting as a law enforcement officer, is authorized to file a criminal complaint in a magistrate court for violations of the Pesticide Control Act or regulations adopted pursuant thereto and shall not be required to pay the docket fee.

History: 1953 Comp., § 45-25-34, enacted by Laws 1973, ch. 366, § 34; 1979, ch. 394, § 13.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 42, 50, 51.

3 C.J.S. Agriculture § 7.

76-4-35. Persons exempted from certain penalties.

A. The penalties provided for violations of Paragraphs (1) through (5) of Subsection A of Section 5 [76-4-5 NMSA 1978] of the Pesticide Control Act shall not apply to:

(1) any carrier while lawfully engaged in transporting a pesticide within this state, if such carrier shall, upon request, permit the department to copy all records showing the transactions in and movement of the pesticides or devices;

(2) public officials of this state and the federal government while engaged in the performance of their official duties in administering state or federal pesticide laws or regulations or while engaged in pesticide research; or

(3) the manufacturer or shipper of a pesticide for experimental use only by or under the supervision of an agency of this state or of the federal government authorized by law to conduct research in the field of pesticides if the manufacturer or shipper holds a valid experimental use permit issued by the department and by the United States environmental protection agency.

B. No pesticide or device shall be deemed in violation of the Pesticide Control Act when intended solely for export to a foreign country and when prepared or packed according to the specifications or directions of the purchaser. If not so exported, all the provisions of the Pesticide Control Act and regulations adopted thereunder shall apply.

History: 1953 Comp., § 45-25-35, enacted by Laws 1973, ch. 366, § 35.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 21, 66.

3 C.J.S. Agriculture § 53.

76-4-36. Repealed.

History: 1953 Comp., § 45-25-36, enacted by Laws 1973, ch. 366, § 36; 1977, ch. 253, § 49; 1978, ch. 39, § 1; 1979, ch. 394, § 14; 1983, ch. 296, § 29; repealed Laws 2005, ch. 235, § 1.

ANNOTATIONS

Repeals. — Laws 2005, ch. 235, § 1 repealed 76-4-36 NMSA 1978, as enacted by Laws 1973, ch. 366, § 36, relating to the pesticide advisory board, effective June 17, 2005. For provisions of former section, *see*

the 2004 NMSA 1978 on *NMOneSource.com*.

76-4-37. Publication of information.

The department may publish, in the form it deems proper, results of products analyzed, based on official samples as compared with the guaranteed analysis and information concerning the distribution and use of pesticides. Individual distribution and use information shall not be a public record. The department may also publish results of samples analyzed for pesticide residues.

History: 1953 Comp., § 45-25-37, enacted by Laws 1973, ch. 366, § 37.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 95.

76-4-38. Cooperation.

The department may cooperate, receive grants-in-aid and enter into cooperative agreements with any agency of the federal government, of this state or its subdivisions, or with any agency of another state, in order to:

A. secure uniformity of regulations;

B. enter into cooperative agreements with the United States environmental protection agency to register pesticides under the authority of the Pesticide Control Act and the federal Environmental Pesticide Control Act;

C. cooperate in the enforcement of the federal Environmental Pesticide Control Act and regulations through the use of state or federal personnel and facilities or both and to implement cooperative enforcement programs including but not limited to the registration of pesticides, collection and analysis of pesticides and devices, inspection of storage facilities and certification of applicators;

D. enter into contracts with other agencies including federal agencies for the purpose of training pesticide dealers, pesticide management consultants, pesticide applicators or operators;

E. publish information and conduct short courses on the storage, transportation, distribution, application, use, registration and disposal of pesticides and devices and environmental implications thereof;

F. enter into contracts for either monitoring pesticides, or analyzing land, including agricultural products that will be consumed by any living organism other than plants, for pesticide residues, or both;

G. prepare and submit a state plan to meet federal certification standards including issuing experimental use permits; and

H. regulate pesticide applicators and operators.

History: 1953 Comp., § 45-25-38, enacted by Laws 1973, ch. 366, § 38.

ANNOTATIONS

Cross references. — For the federal Environmental Pesticide Control Act, *see* 7 U.S.C. § 136 et seq.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 22 to 37, 43.

3 C.J.S. Agriculture §§ 25 to 56.

76-4-39. Disposition of funds.

All moneys received by the department under the provisions of the Pesticide Control Act shall be expended for the purpose of carrying out the provisions of the Pesticide Control Act.

History: 1953 Comp., § 45-25-39, enacted by Laws 1973, ch. 366, § 39.

ANNOTATIONS

Severability. — Laws 1973, ch. 366, § 43, provided for the severability of the act if any part or application thereof is held invalid.

Comments

NMDA did not receive any written comments.

Hearing Sign-In Sheets

Japanese Beetle +

PESTICIDES RULEMAKING HEARING

PROJECT: NMDA Rulemaking **MEETING DATE:** August ~~5~~ 4, 2026

FACILITATOR: Les Owen/Brad Lewis **LOCATION:** ~~Albuquerque~~ Las Cruces, NM

NAME	PHONE (OPTIONAL)	EMAIL (OPTIONAL)
Teri Cates	575-740-2980	tericates@yahoo.com
MARGARET Adams	575 635-5476	peggy.adams@bugyman.com

Japanese Beetle Quarantine Rule +

PESTICIDES RULEMAKING HEARING

PROJECT: NMDA Rulemaking **MEETING DATE:** August 6, 2026

FACILITATOR: Les Owen/Brad Lewis **LOCATION:** Albuquerque, NM

NAME	PHONE (OPTIONAL)	EMAIL (OPTIONAL)
~~Alan Feuer~~ Alan Feuer	505 918 3121	Alan@PPCABQ.com
Kyleigh Serna		kserna@plantworldinc.com
Dixie Massaw	505-227-1701	Dixie.Massaw@heritageppj.com
Chris Benavidez	505-254-1133	cbenavidez@plantworldinc.com
John Crowley	505.307.8695	John.Crowley@Monrovia.com

SIGNATURE: In witness whereof, we have caused the seal of the Board of Regents of New Mexico State University to be affixed this 1st day of October 2026, for approval of:

Proposed Repeal and Replacement of the M-44 Capsules and the Livestock Protection Collar Rule, Title 21, Chapter 17, Part 57 of the New Mexico Administrative Code (21.17.57 NMAC).

_____
Ammu Devasthali, Chair
Board of Regents
New Mexico State University

Attest:

_____
Christopher Saucedo, Sec./Treasurer
Board of Regents
New Mexico State University

Board of Regents Meeting
Meeting Date: October 1, 2026
Agenda Item Cover Page

Agenda Item # IX.F

☐ Action Item
☒ Consent Item
☐ Informational Item

Presented By:
Jeff M. Witte
Director/Secretary New Mexico Department of Agriculture (NMDA)

Agenda Item:

Proposed Amendment of the Pesticides Rule, Title 21, Chapter 17, Part 50 of the New Mexico Administrative Code (21.17.50 NMAC)

Requested Action of the Board of Regents:

Approval of Amendment of 21.17.50 NMAC, Pesticides Rule.

Executive Summary:

The New Mexico Department of Agriculture (NMDA) held two hearings regarding the proposed amendment of 21.17.50 NMAC. On Tuesday, August 4, 2026, at 9 a.m. a public video/telephonic and in-person hearing was held at Gerald Thomas Hall Auditorium (Rm 194), New Mexico State University, located at 940 College Drive in Las Cruces, NM 88003. On Thursday, August 6, 2026, at 9 a.m. an in-person hearing was held at the CNM Workforce Training Center located at 5600 Eagle Rock Ave, NE in Albuquerque, NM 87113.

The Rulemaking Notice was published in the New Mexico Register on June 23, 2026. Notice was provided to the Sunshine Portal, in the Santa Fe New Mexican (both English and Spanish), the Albuquerque Journal, The Las Cruces Sun News, and the NMDA website. Notification and the proposed rule were sent to the New Mexico Economic Development's Small Business Regulatory Advisory Commission and to Legislative Council Service. NMDA has not received findings from either. Notice of public hearings was also sent to pesticide licensed individuals and businesses impacted by the amendments; to the Pest Management Association, a state industry organization representing licensed pesticide applicators; and to the Household Consumer Product Association, a national industry organization representing pesticide manufacturers.

The hearing officer provided the following information for my consideration. I agree with the hearing officer's recommendation and thereby recommend the following for your consideration.

Hearing Officer's Report

This memorandum serves as a summary of the hearings conducted on August 4 and 6, 2026. The information is presented for your review and to assist you in formulating a

recommendation to the New Mexico State University Board of Regents regarding the adoption of the proposed amendment to the Pesticides Rule, Title 21, Chapter 17, Part 50 of the New Mexico Administrative Code.

Amendments are primarily directed at updating pesticide applicator requirements to comply with federal Environmental Protection Agency laws including: pesticide applicator examination requirements; enhanced dealer record requirements; minimum age requirements for pesticide applicator licensees (18 years old); and addition of new pesticide applicator categories. General cleanup of rule language included definition updates and increase in minimum insurance coverage requirements.

During the comment period, program staff identified the inclusion of two categories of licenses that are no longer used (agricultural pilot/serviceman) in the fees section of the rule at 21.17.50.25. I recommend these be removed as indicated in the attached final version of the proposed rule amendment.

Given the extensive outreach that was done and public comments received in support of the proposed changes, it is my recommendation that the proposed amendment of 21.17.50 NMAC be adopted with the recommended changes described above.

References:

Section 76-1-2C NMSA 1978, authorizes the board of regents of New Mexico State University, relative to the New Mexico Department of Agriculture, the authority to adopt and file in compliance with the State Rules Act [Chapter 14, Article 4 NMSA 1978], regulations as may be necessary to carry out its duties.

Prior Approvals:

Agenda Item Approved By:

Each office may determine required signatures (if any). All items should be routed through the President's Office, University General Counsel, or the Secretary of NMDA as appropriate.



9/15/2026

_____ _____

Jeff M. Witte Date
Director/Secretary

RULEMAKING PACKET-
BOARD OF REGENTS

Pesticides

NMDA
New Mexico Department of Agriculture

Official Record

New Mexico Department of Agriculture

Amendment to 21.17.50 NMAC

NMDA Rulemaking

October 1, 2026

NMDA
New Mexico Department of Agriculture

NMDA Rulemaking
21.17.50 NMAC

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Director/Secretary Recommendation Memo

NEW MEXICO DEPARTMENT OF AGRICULTURE
Office of the Director/Secretary
MSC 3189
New Mexico State University
P.O. Box 30005
Las Cruces, NM 88003-8005
Phone: (575) 649-0505

September 10, 2026

MEMORANDUM

TO: New Mexico State University Board of Regents

FROM: Jeff M. Witte, Director/Secretary

SUBJECT: Recommendation to Adopt the Hearing Officer's Recommendation
RE: New Mexico Department of Agriculture Hearings on Proposed Amendment of the Pesticides Rule, Title 21, Chapter 17, Part 50 of the New Mexico Administrative Code (21.17.50 NMAC) (Attached)

BACKGROUND INFORMATION

The New Mexico Department of agriculture (NMDA) held two hearings regarding the proposed amendment of 21.17.50 NMAC, Pesticides. On Tuesday, August 4, 2026, at 9 a.m. a public video/telephonic and in-person hearing was held at Gerald Thomas Hall Auditorium (Rm 194), New Mexico State University, located at 940 College Drive in Las Cruces, NM 88003. On Thursday, August 6, 2026, at 9 a.m. an in-person hearing was held at the CNM Workforce Training Center located at 5600 Eagle Rock Ave, NE in Albuquerque, NM 87113.

The Rulemaking Notice was published in the New Mexico Register on June 23, 2026. Notice was provided to the Sunshine Portal, in the Santa Fe New Mexican (both English and Spanish), the Albuquerque Journal, The Las Cruces Sun News, and the NMDA website. Notification and the proposed rules were sent to the New Mexico Economic Development's Small Business Regulatory Advisory Commission and to Legislative Council Service. NMDA has not received findings from either. Notice of public hearings was also sent to pesticide licensed individuals and businesses impacted by the amendments; to the Pest Management Association, a state industry organization representing licensed pesticide applicators; and to the Household Consumer Product Association, a national industry organization representing pesticide manufacturers.

The hearing officer provided the following information for my consideration. I agree with the hearing officer's recommendation and thereby recommend the following for your consideration.

HEARING OFFICER'S REPORT

This memorandum serves as a summary of the hearings conducted on August 4 and 6, 2026. The information is presented for your review and to assist you in formulating a recommendation to the New Mexico State University Board of Regents regarding the adoption of the proposed amendment to the Pesticides Rule, Title 21, Chapter 17, Part 50 of the New Mexico Administrative Code.

Amendments are primarily directed at updating pesticide applicator requirements to comply with federal Environmental Protection Agency laws including: pesticide applicator examination requirements; enhanced dealer record requirements; minimum age requirements for pesticide applicator licensees (18 years old); and addition of new pesticide applicator categories. General cleanup of rule language included definition updates and increase in minimum insurance coverage requirements.

During the comment period, program staff identified the inclusion of two categories of licenses that are no longer used (agricultural pilot/serviceman) in the fees section of the rule at 21.17.50.25. I recommend these be removed as indicated in the attached final version of the proposed rule amendment.

Given the extensive outreach that was done and public comments received in support of the proposed changes, it is my recommendation that the proposed amendment of 21.17.50 NMAC be adopted with the recommended changes described above.

Initial Proposed Rule

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~~] April 01, 2027, 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.**~~] **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 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]

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.** 1A -- Agricultural [~~pest control~~] pests -- includes the use of pesticides for the control of insects[~~, mites, plant,~~] and other invertabrates, plant diseases, nematodes, and [~~the use of soil fumigants, on agronomic crops~~] similar pests in agricultural sites.

[~~(2)~~] **B.** 1B -- 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.** 1C – [~~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 effect 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 deomonstrate 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]

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 Janaury 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~~] 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]

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]

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.

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]

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:

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 or distribution of all restricted-use pesticides for 2 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/or 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]

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 Envrironment 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]

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]

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~~] 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~~] $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]

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.

[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.

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.

Final Adopted Rule

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: April 01, 2027, 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. **"Bait"** means an edible material containing a pesticide attractive to a pest.

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.

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.

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.

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

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

(1) detailed guidance for applying and using the pesticide properly;

(2) provisions for contacting the certified applicator in the event the certified applicator is needed;

(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.

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.

I. **"Fungus"** means any member of a kingdom of eukaryotic organisms that contain defined nuclei but lack chlorophyll, such as mushrooms, mildew, mold and yeast, except those on or in processed food, beverages, or pharmaceuticals.

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.

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.

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).

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

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.

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.

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

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

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

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).

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.

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.

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

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.

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.

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.

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

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.

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

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.

DD. "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:

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.

A. lA -- Agricultural pests -- includes the use of pesticides for the control of insects and other invertebrates, plant diseases, nematodes, and similar pests in agricultural sites.

B. lB -- Agricultural weeds -- includes the use of pesticides for the control of undesirable plants or as desiccants or defoliants in agricultural sites.

C. lC – Pests of animals – includes the use of pesticides to control lice, mites, fleas, flies and other pests of pets, livestock or 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.

E. 2-- Forest pests and weeds -- includes the use of pesticides to control pests and weeds in forests and forest nurseries.

F. 3A -- Ornamental and turf invertebrate and disease pests -- includes the use of pesticides to control insects and other invertebrates, plant diseases, nematodes, and similar pests in ornamental sites such as lawns, landscapes, parks, golf courses, nurseries, and athletic fields.

G. 3B -- Ornamental and turf weeds -- includes the use of pesticides to control weeds in ornamental sites such as lawns, landscapes, parks, golf courses, nurseries, and athletic fields.

H. 4 -- Seed treatment -- includes the use of pesticides on plant seeds to control insects, plant diseases and other pests.

I. 5 -- Aquatic pests and weeds -- includes the use of pesticides to control algae, undesirable fish and other aquatic organisms, excluding public health 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.

K. 6B -- Right-of-way and industrial weeds -- includes the use of pesticides to control vegetation along public roads, electric powerlines, pipelines, railway rights-of-way, around oil wells, storage areas, airports and similar areas.

L. 7A -- Structural invertebrate pests -- includes the use of pesticides other than gases to control household invertebrate pests in and around structures such as residences, schools, hospitals, offices, and other buildings.

M. 7B – Structural Vertebrate pests -- includes the use of pesticides other than gases to control rodents, birds, and other vertebrate pests in and around structures such as residences, schools, hospitals, offices, warehouses, and other buildings.

N. 7D – (Termite and other) Wood destroying pests -- includes the use of pesticides to control termites, carpenter ants, beetles, fungi and other pests which attack lumber in structures or sawed timber.

O. 8 -- Public health pests -- includes the use of pesticides to control pests such as mosquitoes, flies, fleas and other vectors that transmit human or animal diseases.

P. 9 -- Regulatory pests -- includes the use of pesticides by federal or state employees to control regulated or quarantined pests. Applicators must hold at least one specific pest control category in addition to Regulatory pests.

Q. 10A -- Demonstration pest control –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.

R. 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]

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 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 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 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]

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 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 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]

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:

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 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]

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 or distribution of all restricted-use pesticides for 2 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/or non-certified applicator;

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

(3) date of sale;

(4) brand name of the pesticide product and its EPA registration number;

(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 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. 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 Envrironment 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]

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]

21.17.50.20 OPERATOR TRAINING PERMITS: A new employee of a licensed commercial applicator shall work no more than 60 calendar days under an operator training permit provided another commercial applicator or operator licensed in New Mexico at least 6 months is present on the application site. Prior to expiration of the 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 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 – $250,000 each occurrence, $500,000 aggregate.

(b) Property damage – $300,000 each occurrence.

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

(2) Ground or manual.

(a) Bodily injury – $200,000 each occurrence – $400,000 aggregate.

(b) Property damage – $250,000 each occurrence.

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

[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.

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 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 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.

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.

Hearing Officer Recommendation Memo

NEW MEXICO DEPARTMENT OF AGRICULTURE
Office of the Director/Secretary
MSC 3189
New Mexico State University
P.O. Box 30005
Las Cruces, NM 88003-8005
Phone: (575) 649-0505

September 4, 2026

MEMORANDUM

TO: Director/Secretary Jeff M. Witte

FROM: Les Owen, Deputy Director – Hearing Officer

SUBJECT: Hearing Officer Report – RE: New Mexico Department of Agriculture Hearing on Proposed Amendment of 21.17.50 NMAC, Pesticides.

BACKGROUND INFORMATION

The New Mexico Department of agriculture (NMDA) held two hearings regarding the proposed amendment of 21.17.50 NMAC, Pesticides. On Tuesday, August 4, 2026, at 9 a.m. a public video/telephonic and in-person hearing was held at Gerald Thomas Hall Auditorium (Rm 194), New Mexico State University, located at 940 College Drive in Las Cruces, NM 88003. On Thursday, August 6, 2026, at 9 a.m. an in-person hearing was held at the CNM Workforce Training Center located at 5600 Eagle Rock Ave, NE in Albuquerque, NM 87113.

The Rulemaking Notice was published in the New Mexico Register on June 23, 2026. Notice was provided to the Sunshine Portal, in the Santa Fe New Mexican (both English and Spanish), the Albuquerque Journal, The Las Cruces Sun News, and the NMDA website. Notification and the proposed rules were sent to the New Mexico Economic Development's Small Business Regulatory Advisory Commission and to Legislative Council Service. NMDA has not received findings from either. Notice of public hearings was also sent to pesticide licensed individuals and businesses impacted by the amendments; to the Pest Management Association, a state industry organization representing licensed pesticide applicators; and to the Household Consumer Product Association, a national industry organization representing pesticide manufacturers.

The hearing officer provides the following information for consideration by NMDA's director/secretary.

SUMMARY OF PRIMARY PROPOSED RULE CHANGES

Amendments are primarily directed at updating pesticide applicator requirements to comply with federal Environmental Protection Agency laws including: pesticide applicator examination requirements; enhanced dealer record requirements; minimum age requirements for pesticide applicator licensees (18 years old); and addition of new pesticide applicator categories. General cleanup of rule language included definition updates and increase in minimum insurance coverage requirements.

See Exhibit 1 for the strikethrough version of the proposed amendments to 21.17.50 NMAC, Pesticides that these hearings cover.

PUBLIC COMMENT

There were 8 virtual and 1 in-person participants at the hearing held in Las Cruces and 5 in-person at the Albuquerque hearing. One written public comment and two oral comments were received at the hearings as detailed below.

Teri Cates, owner of a New Mexico commercial pesticide applicator business has a 16-year-old son who is currently licensed in New Mexico as a pesticide applicator. Under the new rule requirements, the minimum age to hold an applicator license is 18. Ms. Cates' written comment asked if her son would lose his license or is there a provision that would allow him to maintain his license.

Teri Cates, owner of TLC Pest Control, Vice President of New Mexico Pest Management Association and State Policy Affairs Representative for the Industry expressed support at the Las Cruces hearing for the rule change as long overdue.

Alan Feuer, a commercial applicator, stated his support at the Albuquerque hearing for the rule changes.

HEARING OFFICER'S CONCLUSION

This memorandum serves as a summary of the hearings conducted on August 4 and 6, 2026. The information is presented for your review and to assist you in formulating a recommendation to the New Mexico State University Board of Regents regarding the adoption of the proposed amendment to the Pesticides Rule, Title 21, Chapter 17, Part 50 of the New Mexico Administrative Code.

Regarding the written comment inquiring about a 16-year-old maintaining their license, the minimum age requirement for an applicator license is established by the Environmental Protection Agency. There is no federal or state provision that will allow the 16-year-old to maintain their license.

During the comment period, program staff identified the inclusion of two categories of licenses that are no longer used (agricultural pilot/serviceman) in the fees section of the rule at 21.17.50.25. I recommend these be removed from the final version as indicated in Exhibit 1 highlighted in yellow.

Given the extensive outreach that was done and public comments received in support of the proposed changes, it is my recommendation that the proposed amendment of 21.17.50 NMAC be adopted with the recommended changes described above.

Please contact me if you have any questions.

EXHIBIT 1

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~~] April 01, 2027, 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.**~~] **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 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]

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 invertabrates, 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 effect 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 deomonstrate 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]

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 Janaury 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~~] 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]

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]

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.

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]

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:

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 or distribution of all restricted-use pesticides for 2 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/or 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]

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 Envrironment 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]

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]

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~~] 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.; o~~r~~

(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~~] $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]

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.

[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.

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.

Hearing Transcript - August 4, 2026

New Mexico Department of Agriculture

Rulemaking Public Hearing

Moderated by Les Owen, Deputy Director NMDA

Tuesday, August 4, 2026

9:05 a.m.

Gerald Thomas Hall Auditorium

940 College Drive, Room 194

Las Cruces, NM 88003

Reported by: Ryan Auten

JOB NO: 8263995

A P P E A R A N C E S

List of Attendees:

Les Owen, Deputy Director NMDA

Stephen Baca, Assistant Director - Agricultural Environmental Services

Ryan Hiles, Assistant Director - Agricultural Environmental Services

Tony Marquez, Director of Information Technology - New Mexico Department of Agriculture

Teri Cates, Owner TLC Pest Control, VP - New Mexico Pest Management Association

C. Benevidez, Attendee (by videoconference)

Courtenay, Attendee (by videoconference)

Kyleigh Serna, Attendee (by videoconference)

Micah Meyer, Attendee (by videoconference)

N. Busse, Attendee (by videoconference)

T. Thompson, Attendee (by videoconference)

Tyler Leslie, Rehm's Nursery (by videoconference)

Veronica, Attendee (by videoconference)

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 following rules: Japanese Beetle Exterior Quarantine, 21.27.27 [sic] of the New Mexico Administrative Code; Control of Wood Destroying Pests, 21.17.51 of the New Mexico Administrative Code; Continuing Education Units for Pesticide Applicators, 21.17.53 of the New Mexico Administrative Code; Restricted-Use Pesticides, 21.17.56 of the New Mexico Administrative Code; and M-44 Capsules in the Livestock Protection Collar, 21.17.57 of the New Mexico Administrative Code. Additionally, this hearing will address the proposed amendments to the Pesticides Rule 21.17.50 of the New Mexico Administrative Code.

My name is Les Owen. I am the deputy director for 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 rules and procedural steps were made available as you walked in.

The day and date is Tuesday, August 4, 2026, and the time is approximately 9:05 a.m. This

hearing is being held in person and virtually via internet link in New Mexico State University's Gerald Thomas Hall Auditorium, located at 940 College Drive, Las Cruces, New Mexico. This is the published date, time, and location for this hearing.

In accordance to state law, public notices for this hearing were published as follows: The New Mexico Register published June 23, 2026; Las Cruces Sun News, June 23, 2026; the Santa Fe, New Mexican, June 23, 2026, in English and Spanish; and the Albuquerque Journal, June 23, 2026. Notices were also published -- were also posted on New Mexico Department of Agriculture's website, New Mexico Sunshine Portal, and made available at New Mexico Department of Agriculture's main office in Las Cruces.

Additionally, notifications were sent to the New Mexico Economic Development Small Business Regulatory Advisory Commission for comment and to Legislative Counsel Service. Copies of the proposed replacement rules and amended rule were made available on New Mexico Department of Agriculture's website.

This hearing is being recorded and either a transcript of today's hearing or the recording will be available from New Mexico Department of Agriculture's website. Following a summary of

major points within each proposed six rules, the public will be provided with an opportunity to permit -- to present testimony. Testimony should be relevant to the proposed rules or amendments.

The first of six rules addressed in this hearing is the proposed repeal and replacement of the Japanese Beetle Exterior Quarantine Rule. Mr. Hiles will now provide a summary of proposed primary points included in the rule.

MR. HILES: Good morning. I am Ryan Hiles, an assistant division director with the New Mexico Department of Agriculture. The Japanese Beetle Exterior Quarantine Rule, 21.17.27 of the New Mexico Administrative Code, was promulgated under the authority of the Pest Control Act 76.6.1 of New Mexico Statutes to address risks associated with importing Japanese beetle into New Mexico through the importation of plant/nursery stock.

Extensive proposed amendments to the Japanese beetle exterior quarantine rule necessitated the repeal and replacement of the existing rule. Major points addressed include additional definitions for clarification purposes, requirement for nurseries exporting plants to New Mexico to comply with restrictions outlined in New Mexico Department of

Agriculture-issued compliance agreement, expansion of quarantined areas to include all U.S. states and specific Canadian provinces, requirements for smaller pots containing non-gramineous nursery stock to be treated prior to export to New Mexico, and provide states a pathway to include multiple nurseries to be covered under one compliance agreement.

MR. OWEN: Thank you, Mr. Hiles.

As of August 1, 2026, the New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Japanese Beetle Exterior Quarantine.

For those of you in the room, please raise your hand and wait until I call on you. For those participating through Zoom, please use the "Raise Hand" feature, and you will be -- you will then be unmuted. Begin your comment by stating your name and affiliation for the record. Your comment should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

Is there anyone else wishing to comment?

Seeing none, I will close the public

oral comment period for the proposed Japanese Beetle Exterior Quarantine Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website.

The second rule addressed during this hearing is the proposed repeal and replacement of the Control of Wood Destroying Pests rule. Mr. Baca will present a summary of major points contained in this proposed replacement rule.

MR. BACA: Good morning. I am Steve Baca, an assistant division director with New Mexico Department of Agriculture. The Control of Wood Destroying Pests Rule, 21.17.51 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.4.1-39 of

New Mexico Statutes to address regulatory requirements related to pesticide applicators involved in the control of wood-destroying pests.

Although amendments to the existing Control of Wood Destroying Pests Rule are few, format updates necessitated the repeal and replacement of the existing rule. Major points addressed in the proposed rule include updating, noting that not all termiticides are restricted-use products, alignment of terms with those used in the Pesticide Control Act, and clarification of license types that require supervision while applying pesticide -- insecticides.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Control of Wood Destroying Pests Rule.

For those of you in the room, please raise your hand and wait until I call on you. For those participating through Zoom, please use the raise your hand feature, and you will be unmuted. Begin your comment by stating your name and affiliation for the record. Your comment should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

Is there anyone else wishing to comment?

Seeing none, I will close the -- the public oral comment period for the proposed Wood Destroying Pests Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website.

The third rule addressed in this hearing is the proposed repeal and replacement of the Continuing Education Units for Pesticide Applicators Rule. Mr. Baca will present a summary of major points contained in this proposed replacement rule.

MR. BACA: I'm Steve Baca, an assistant

division director with the New Mexico Department of Agriculture. The Continuing Education Units for Pesticide Applicators Rule, 21.17.53 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.1.4 1-39 [sic] of the New Mexico Statutes to address Environmental Protection Agency-required updates relevant to continuing education requirements for pesticide applicators.

Extensive proposed changes and format updates necessitated a repeal and replacement process for this rule. Major points proposed in the replacement rule include definition updates, clarification of continuing education units approval process, addition of Environmental Protection Agency mandated re-certification requirements, and addition of new environmental protection agency pesticide applicator categories.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed continuing education units for pesticide applicators rule.

For those of you in the room, please

raise your hand and wait until I call on you. For those participating through Zoom, please use the raise your hand feature, and you will be unmuted. Begin your comment by stating your name and affiliation for the record. Your comments should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments. Yes.

MS. CATES: [Unintelligible response.]

MR. OWEN: Great. Thank you.

Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Continuing Education Units for Pesticide Applicators Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be

available from New Mexico Department of Agriculture's website.

Oh.

UNIDENTIFIED SPEAKER: Now if you use this microphone, he should be able to hear you.

MS. CATES: My name is Teri Cates. I am the owner-operator of TLC Pest Control, as well as the current vice president of New Mexico Pest Management Association and the State Policy Affairs Representative for the industry -- the pest control industry in the state of New Mexico. I'm here today to support the rule change, as it is much needed and long overdue.

MR. OWEN: Great. Thank you.

The fourth rule addressed in this hearing is the proposed repeal and replacement of the Restricted-Use Pesticides Rule. Mr. Baca will present a summary of major points contained in the proposed rule replacement.

MR. BACA: I'm Steve Baca, an assistant division director with New Mexico Department of Agriculture. The Restricted-Use Pesticides Rule, 21.17.56 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.4.1-39 of New Mexico Statutes to

address regulations relevant to the purchase, sale, use, and record retention of restricted-use pesticides.

Although proposed amendments to the existing Restricted-Use Pesticide Rule are few, format updates necessitated the repeal and replacement of the current rule. The major point addressed in the proposed rule is a revision of pesticide records requirements to ensure compliance with Environmental Protection Agency mandates.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed Restricted-Use Pesticides Rule.

For those of you in the room, please raise your hand and wait till I call on you. For those participating through Zoom, please use the "Raise Hand" feature, and you will be unmuted. Begin your comments by stating your name and affiliation for the record. Your comments should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

Okay. Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Restricted-Use Pesticides Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website.

The fifth rule addressed in this hearing is the proposed repeal and replacement of the M-44 and the Livestock Protection Collar Rule. Mr. Baca will present a summary of major points contained in the proposed replacement rule.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture. The M-44 and the Livestock Protection -- Protection Collar Rule, 21.17.57 of the

New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.4.1-39 of New Mexico Statutes to address regulations relevant to the purchase, sale, use, accident reporting, and record retention of M-44s and livestock protection collars.

Although proposed amendments to the existing M-44 and the Livestock Protection Collar Rule are few, format updates necessitated the repeal and replacement of the existing rule. Major points addressed in the proposed replacement rule include clarification of prospective license -- licensee qualifications, updating of records requirements, and harmonization of rule language with product labels.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed M-44 and Livestock Protection Collar Rule.

For those of you in the room, please raise your hand and wait until I call on you. For those participating through Zoom, please use the "Raise Hand" feature, and you will be unmuted. Begin your comment by stating your name and affiliation for

the record. Your comments should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed M-44 and -- and the Livestock Protection Collar Rule. Written comments will be accept until -- accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website.

The last rule addressed in this hearing are proposed amendments to the Pesticides Rule. Mr. Baca will present a summary of major points contained in the proposed rule amendments.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture. The Pesticides Rule, 21.17.50 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.4.1-39 of New Mexico Statutes to address regulations relevant to the sale of pesticides, purchase, use, licensing, and record requirements by commercial pesticide applicators and individuals using restricted-use pesticides, and identifying pesticide applicator licensing categories.

The majority of proposed amendments to the Pesticides Rule are Environmental Protection Agency-mandated updates. These updates include changes in examination requirements, record requirement enhancements, new pesticide applicator categories, and minimum age establishment for applicators.

Additionally, proposed amendments include general language cleanup, increase in minimal insurance requirements, definition updates, and clarification to operators' training permits.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received no written

comments. We'll now open the floor for comments directed at the proposed Pesticides Rule.

For those of you in the room, please raise your hand and I will -- and wait until I call on you. For those participating through Zoom, please use the "Raise Hand" feature, and you will be unmuted. Begin your comment by stating your name and affiliation for the record. Your comments should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

MS. CATES: My name is Teri Cates. I'm the owner-operator at TLC Pest Control, and I'm also the vice president of New Mexico Pest Management Association and the State Policy Affairs Representative for the industry. I am here on behalf of myself and my association to support all the rule changes, as they are much needed and long overdue.

MR. OWEN: Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Pesticides Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at

the main Las Cruces office.

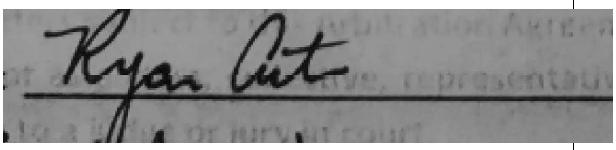
All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be available from the New Mexico Department of Agriculture's website.

The time is 9:21 a.m. I will now close this public hearing that addressed amendments to or the repeal and replacement of six New Mexico Department of Agriculture pesticide or plant pest-related rules. Thank you.

(Whereupon, at 9:21 a.m., the proceeding was concluded.)

CERTIFICATE

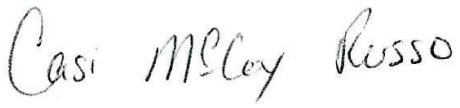
I, RYAN AUTEN, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that 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.



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

CERTIFICATE OF TRANSCRIBER

I, CASI MCCOY RUSSO, 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.



CASI MCCOY RUSSO

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Hearing Transcript - August 6, 2026

New Mexico Department of Agriculture

Pesticides Rulemaking Hearing

Moderated by Les Owen, Deputy Director

Thursday, August 6, 2026

9:00 a.m.

Central New Mexico Community College Workforce Training Center

5600 Eagle Rock Avenue Northeast

Albuquerque, NM 87113

Reported by: James Cogswell

JOB NO: 8264010

A P P E A R A N C E S

List of Attendees:

Les Owen, Deputy Director, New Mexico Department of Agriculture

Ryan Hiles, Assistant Division Director, New Mexico Department of Agriculture

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

Tim Darden, New Mexico Department of Agriculture

Nathan Abrahamson, New Mexico Department of Agriculture

Maria Rocha-Hall, New Mexico Department of Agriculture

Candie Sweetser, New Mexico Department of Agriculture

Alan Feuer, Attendee

Kyleigh Serna, Attendee

Dixie Mussaw, Attendee

Chris Benavidez, Attendee

John Crowley, Attendee

Bradley Lewis, New Mexico Department of Agriculture

P R O C E E D I N G S

MR. OWEN: We're ready? Okay. Good morning. At this time, we will start the hearing that addresses the proposed repeal and replacement of the following rules: Japanese Beetle Exterior Quarantine, 21.27.27 of the New Mexico Administrative Code. Control of Wood Destroying Pest, 21.17.51 of the New Mexico Administrative Code.

Continuing Education Units for Pesticide Applicators, 21.17.53 of the New Mexico Administrative Code. Restricted-Use Pesticides, 21.17.56 of the New Mexico Administrative Code. And M-44 Capsules and the Livestock Protection Collar, 21.17.57 of the New Mexico Administrative Code.

Additionally, this hearing will address the proposed amendments to the Pesticides Rule 21.17.50 of the New Mexico Administrative Code. My name is Les Owen. I am the deputy director for 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 rules and procedural steps were made available as you walked in. The day and date is Thursday, August 6th, and the

time is approximately 9:05 a.m.

This hearing is being held in person at the CNM Workforce Training Center located at 5600 Eagle Rock Avenue, Albuquerque, New Mexico. This is the published date, time, and location for this hearing.

In accordance to state law, public notices for this hearing were published as follows: The New Mexico Register, published June 23, 2026, Las Cruces Sun-News, June 23, 2026, The Santa Fe New Mexican, June 23, 2026, in English and Spanish, and the Albuquerque Journal, June 23, 2026.

Notices were also posted at the New Mexico Department of Agriculture's website and the New Mexico Sunshine Portal and made available at New Mexico Department of Agriculture's main office in Las Cruces.

Additionally, notifications were sent to the New Mexico Economic Development's Small Business Regulatory Advisory Commission for comment and to Legislative Counsel Service. Copies of the proposed replacement rules and amended rule were made available on New Mexico Department of Agriculture's website.

Written comments will be accepted until

5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office. Following a summary of major points within each proposed six rules, the public will be provided with an opportunity to present testimony.

Testimony should be relevant to the proposed rules or amendments. The first of six rules addressed in this hearing is the proposed repeal and replacement of the Japanese Beetle Exterior Quarantine Rule. Mr. Hiles will now provide a summary of proposed primary points included in the rule.

MR. HILES: Good morning. I am Ryan Hiles, an assistant division director with the New Mexico Department of Agriculture.

The Japanese Beetle Exterior Quarantine Rule 21.17.27 of the New Mexico Administrative Code was promulgated under the authority of the Pest Control Act 76.6.1 of New Mexico statutes to address risks associated with importing Japanese beetle into New Mexico through the importation of plant nursery stock.

Extensive proposed amendments to the Japanese Beetle Exterior Quarantine Rule necessitated the repeal and replacement of the existing rule.

Major points addressed include: additional definitions for clarification purposes.

Requirements for nurseries exporting plants to New Mexico to comply with the restrictions outlined in New Mexico Department of Agriculture issued compliance agreement. Expansion of quarantined areas to include all U.S. States and specific Canadian provinces.

Requirements for smaller pots containing non-gramineous nursery stock to be treated prior to export to New Mexico. And provide states a pathway to include multiple nurseries to be covered under one compliance agreement.

MR. OWEN: Thank you, Mr. Hiles.

As of August 6, 2026, New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Japanese Beetle Exterior Quarantine. Please raise your hand and wait until I call on you. Begin your comment by stating your name and affiliation for the record.

Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments. We have a microphone up here for anybody that would like to comment.

Yes, sir. If you'll please just come up to this microphone so that we can capture it.

MR. CROWLEY: Thank you for listening. Am I on? Okay. Thank you for listening. I'm John Crowley, and I'm a sales rep for Monrovia Growers. You -- I know this is a little heavy-handed as any agriculture department or any government entity is. You can't, like, say, "Oh, you get a by."

But as I've expressed in emails to the NMDA, it's hard to prove that ghosts don't exist. Monrovia Growers and many other growers have areas that are clean. And the way the rules or regulations are proposed, it's almost like go out there and trap.

And we don't want -- we really don't want to trap because it -- the traps you have us using in Oregon -- they do have us using those in Oregon already. That's a requirement. And we're compliant with that. That's easily done. That Oregon nursery is in an agricultural area. It isn't in a residential area. So that's easily done.

The -- none of us here, nobody in this room wants to bring Japanese beetles in. But the gramineous plants that you're requiring, those are basically woody landscape ornamentals. I can think of, like, pampus grass, maiden grass. And I can't

understand.

Maybe that's the USDA recommendation instead of -- and NMDA is just using that or -- or piggybacking with that. I don't know. But gramineous plants, I don't understand how that can be. I understand turf and then we're getting into gramineous, bluegrass, Kentucky Bluegrass. I get that.

But when it comes to woody ornamentals, which are a lot of ornamental grasses, you're really cutting down on a plant that people use here as a standalone, looks great in the gravel, not a heavy water user, drought tolerant, looks great. So I think that we -- I'd like to see us revisit that.

Also, the size container, you had mentioned be treated in there, some plants being treated. I don't know what that all entails, whether you're going to require us to start treating them with, like, Talstar or something prior to shipping. That's a little scary because you don't want to hit it with a chemical.

Then put it on the back of the truck, seal the door, and let it ride for six days with no sunshine. Then open it up and see what you got. You can understand that. So please work with us on that

and let us know. We're spending a lot of money up in Oregon to treat for them. We don't have any Japanese beetles up there.

We're -- I see the traps when I'm up there. So I think that if it's a clean nursery, a little less heavy-handed on the container size. You know, let's -- let's look at those. And I -- I think that might be a piggyback again with the USDA. Am I correct; Ryan?

MR. HILES: So for clean nurseries, that's going to -- the options in the proposed rule allow for clean nurseries to be excluded from the treatment requirements if need be.

MR. CROWLEY: Ah. Okay.

MR. HILES: So that's going to be --

MR. CROWLEY: I see. That -- yeah.

MR. HILES: Yes.

MR. CROWLEY: That was -- that was unclear. Thank you for the clarification there.

MR. HILES: No problem.

MR. CROWLEY: But it does seem a -- it's cutting back on a lot of the income of these garden centers that are running clean operations, just like Monrovia, you know, Osuna, Plant World. These places that are, you know, not Bob's cheap shop and

not -- the mass merchants are the ones that scare me the most.

So I'd really like some kind of -- you know, I saw it in California there aren't any bugs, but that's the only place I can ship my ornamental grasses from now. You've nixed me out of Oregon, you nixed me out of Georgia. But the only place I can ship them is California.

Now with this, you're going to nix me out of -- out of California next September 27th, I think -- or September of '27. It gets to the point, it's like, good golly. If you knew how much you cut my income by knocking me out of 15 and 10 gallon crape myrtles out of Georgia, you would be -- it -- it wouldn't -- anyway, it wasn't fun. It's not pleasant.

So I really -- we don't want Japanese beetle, but we feel it's a little heavy-handed from the New Mexico Department of Agriculture. Thank you.

MR. OWEN: Thank you.

Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Japanese Beetle Exterior Quarantine Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be

submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The second rule to be addressed during this hearing is the proposed repeal and replacement of the Control of Wood Destroying Pests Rule.

Mr. Baca will present a summary of major points contained in this proposed replacement rule.

MR. BACA: Good morning. I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture.

The Control of Wood Destroying Pests, Rule 21.17.51 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act, 76.4.1-39 of New Mexico statutes to

address regulatory requirements related to pesticide applicators involved in the control of wood-destroying pests.

Although proposed amendments to the existing Control of Wood Destroying Pest Rules are few, format updates necessitated the repeal and replacement of the existing rule. Major points addressed in the proposed rule include: update noting that not all termiticides are restricted use products.

Alignment of terms with those used in the Pesticide Control Act. And clarification of license types that require supervision while applying insecticides.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Control of Wood Destroying Pests Rule. Please raise your hand and wait until I call on you. Begin your comment by stating your name and affiliation for the record.

Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments. Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Wood Destroying Pests Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The third rule addressed in this hearing is the proposed repeal and replacement of the Continuing Education Units for Pesticide Applicators Rule.

Mr. Baca will present a summary of major points contained in the proposed replacement rule.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture.

The Continuing Education Units for

Pesticide Applicators Rule 21.17.53 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act, 76.4.1-39 of New Mexico statutes to address Environmental Protection Agency required updates relevant to Continuing Education Requirements for Pesticide Applicators.

Extensive proposed changes and format updates necessitated a repeal and replacement process for this rule. Major points proposed in the replacement rule include: definition updates, clarification of continuing education units approval process, addition of Environmental Protection Agency mandated recertification requirements.

And addition of new environmental protection agency pesticide applicator categories.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received no written comments. We'll now open the floor for comments directed at the proposed Continuing Education Units for Pesticide Applicators Rule. Please raise your hand and wait until I call on you.

Begin your comments by stating your name and affiliation for the record. Your comments

should be limited to the contents of the proposed rule. At this time, I will begin accepting comments.

Yes, sir.

MR. FEUER: Good morning. My name is Alan Feuer. I am a certified applicator in the State of New Mexico, license number 61155.

Did you get all that?

THE REPORTER: Yeah.

MR. FEUER: It's good enough?

I've held licensure in the state of New Mexico since 1989. I'm licensed in the Categories 7A, B, C, D, 3A, and 3B, six categories. I come up here today to speak in complete and total favor of the upgrade to the testing and certifications and recertification rules. This is far overdue.

It has been unfair for decades that only one category in our entire licensure circumstances required any sort of continuing education for operator servicemen. And this rectifies quite a bit of that. So thank you for the changes that have been made.

MR. OWEN: Thank you.

Is there anyone else wishing to comment?

Seeing none, I will close the public

oral comment period for the proposed Continuing Education Units for Pesticide Applicators Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The fourth rule addressed in this hearing is the proposed repeal and replacement of the Restricted-Use Pesticides Rule.

Mr. Baca will present a summary of major points contained in the proposed replacement rule.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture.

The Restricted-Use Pesticides Rule 21.17.56 of the New Mexico Administrative Code was

promulgated under the authority of the Pesticide Control Act 76.4.1-39 of New Mexico statutes to address regulations relevant to the purchase, sale, use, and record retention of Restricted Use Pesticides.

Although proposed amendments to the existing Restricted-Use Pesticides Rule are few, format updates necessitated the repeal and replacement of the current rule. The major point addressed in the proposed rule is a revision of pesticide records requirements to ensure compliance with Environmental Protection Agency mandates.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed Restricted-Use Pesticides Rule. Please raise your hand and wait until I call on you.

Begin your comment by stating your name and affiliation for the record. Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments. Is there anyone wishing to comment?

Seeing none, I will close the public

oral comment period for the proposed Restricted-Use Pesticide Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The fifth rule addressed in this hearing is the proposed repeal and replacement of the M-44 and Livestock Protection Collar Rule.

Mr. Baca will present a summary of major points contained in the proposed replacement rule.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture.

The M-44 and the Livestock Protection Collar Rule 21.17.57 of the New Mexico Administrative Code was promulgated under the authority of the

Pesticide Control Act 76.4.1-39 of New Mexico statutes to address regulations relevant to the purchase, sale, use, accident reporting, and record retention of M-44s and Livestock Protection Collars.

Although proposed amendments to the existing M-44 and the Livestock Protection Collar Rule are few, the format updates necessitated the repeal and replacement of the existing rule.

Major points proposed in the replacement rule include: clarification of prospective licensee qualifications, updating of records requirements, and harmonization of rule language with product labels.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed M-44 and Livestock Protection Collar Rule. Please raise your hand and wait until I call on you. Begin your comment by stating your name and affiliation for the record.

Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments. Is there anyone wishing to comment?

Seeing none, I will close the public oral comment period for the proposed M-44 and Livestock Protection Collar Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The last rule addressed in this hearing are proposed amendments to the Pesticides Rule. Mr. Baca will present a summary of major points contained in the proposed rule amendments.

MR. BACA: I am Steve Baca, an assistant division director with New Mexico Department of Agriculture.

The Pesticides Rule 21.17.50 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act, 76.4.1-39 of

New Mexico statutes to address regulations relevant to the sale of pesticides, purchase, use, licensing, and record requirements by commercial pesticide applicators and individuals using restricted use pesticides.

And identifying pesticide applicator licensing categories. The majority of proposed amendments to the Pesticide Rule are Environmental Protection Agency mandated updates.

These updates include: changes in examination requirements, record requirement enhancements, new pesticide applicator categories, and minimum age establishment for applicators.

Additionally, proposed amendments include: general language cleanup, increase in minimal insurance requirements, definition updates, and clarification to operator's training permits.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Pesticide Rule. Please raise your hand and wait until I call on you. Begin your comment by stating your name and affiliation for the record.

Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments.

Yes, sir.

MR. FEUER: Thank you. My name is Alan Feuer. I'm a commercial applicator, license number 61155, in six categories in the state of New Mexico. I rise to explain -- or to state my support for these changes.

MR. OWEN: Thank you.

Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed amendments to the Pesticides Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording

will be available from New Mexico Department of Agriculture's website.

The time is 9:23 a.m. I will now close this public hearing that addressed amendments to or the repeal and replacement of six New Mexico Department of Agriculture pesticide or plant pest related rules. Thank you.

(Whereupon, the meeting concluded at 9:23 a.m.)

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.



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

CERTIFICATE OF TRANSCRIBER

I, MARY SACKETT, 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.



MARY SACKETT

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New Mexico Rules of Civil Procedure for the

District Courts

Article 5, Rule 1-030

(e) Review by Witness; Changes; Signing. If requested by the deponent or a party before completion of the deposition, the deponent shall have thirty (30) days after being notified by the officer that the transcript or recording is available in which to review the transcript or recording and, if there are changes in form or substance, to sign a statement reciting such changes and the reasons given by the deponent for making them. The officer shall indicate in the certificate prescribed by Subparagraph (1) of Paragraph F of this rule whether any review was requested and, if so, shall append any changes made by the deponent during the period allowed.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE STATE RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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Exhibits

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the New Mexico Department of Agriculture (NMDA) proposes to repeal and replace the following: 21.17.27 NMAC, JAPANESE BEETLE EXTERIOR QUARANTINE; 21.17.51 NMAC, CONTROL OF WOOD DESTROYING PESTS; 21.17.53 NMAC, CONTINUING EDUCATION UNITS FOR PESTICIDE APPLICATORS; 21.17.56, NMAC RESTRICTED-USE PESTICIDES; and 21.17.57 NMAC, M-44 AND THE LIVESTOCK PROTECTION COLLAR. NMDA proposes amending 21.17.50 NMAC, PESTICIDES.

PURPOSE AND SUMMARY OF PRIMARY PROPOSED RULE CHANGES:

21.17.27 NMAC, JAPANESE BEETLE EXTERIOR QUARANTINE
Extensive amendments necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: additional terms added to the definition section to clarify regulatory requirements; scope of Japanese beetle (JB) quarantined areas expanded from 36 states to all U.S. states and specific Canadian provinces; scope of regulated articles expanded to include additional nursery stock items; compliance agreements (issued by NMDA) required for shipment of regulated articles into New Mexico; departments of agriculture in originating states provided options to petition NMDA for areawide or single-nursery compliance agreements; treatment requirements clarified for shipment of regulated articles into New Mexico; exceptions from compliance agreement requirements provided for small (under 10-inch container diameter) non-gramineous nursery stock; and requirement for small (under 10-inch container diameter) non-gramineous nursery stock to be treated and accompanied by a phytosanitary certificate for shipment into New Mexico.

21.17.51 NMAC, CONTROL OF WOOD DESTROYING PESTS
Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: removal of restricted use statement to reflect that not all termiticides are restricted use products; alignment of terms with those in the Pesticide Control Act, 76.4.18 et. seq. NMSA 1978; and clarification of license types that require direct supervision of employees applying pesticides.

21.17.53 NMAC, CONTINUING EDUCATION UNITS FOR PESTICIDE APPLICATORS
Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: updates to definitions; clarification of Continuing Education Unit approval process; addition of Environmental Protection Agency mandated recertification requirements, including the number of Continuing Education Units required for all applicator categories.

21.17.56 NMAC, RESTRICTED-USE PESTICIDES
Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: updates to language and revision of additional pesticide dealer record requirements to comply with Environmental Protection Agency.

21.17.57 NMAC, M-44 AND THE LIVESTOCK PROTECTION COLLAR
Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: clarification of prospective licensee qualifications; and records and usage requirements updated to address product label inconsistencies.

21.17.50 NMAC, PESTICIDES
Amendments are primarily directed at updating pesticide applicator requirements to comply with federal Environmental Protection Agency laws including: pesticide applicator examination requirements; enhanced dealer record requirements; minimum age requirements for pesticide applicator licensees (18 years old); and addition of new pesticide applicator categories. General cleanup of rule language included definition updates and increase in minimum insurance coverage requirements.

STATUTORY AUTHORITY (Rule 21.17.27 NMAC)**:** Granted to the Board of Regents of New Mexico State University under the Pest Control Act, Chapter 76, Article 6, Sections 1 through 9 NMSA 1978 Compilations. **(**Rules 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC, and 21.17.50 NMAC)**:** 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 Compilations.

Copies of the Notice of Proposed Rulemaking and the proposed rules (including any technical information) are available by electronic download from the New Mexico Department of Agriculture website (https://nmdeptag.nmsu.edu) and are also available at the department's office, located at 1050 Stewart Street, Las Cruces, NM.

Tuesday, August 4, 2026, at 9 a.m., NMDA will host a public hearing that may be attended in person, by video conference, or by telephone. The hearing will take place at the Gerald Thomas Hall Auditorium (Room 194) on the campus of New Mexico State University, located at 940 College Drive, Las Cruces, NM. The hearing will include repeal and replacement, and or amendments to rules 21.17.27 NMAC, 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC and 21.17.50 NMAC.

Join the hearing via **video conference** Tuesday, August 4, 2026, at 9:00 a.m.:
Meeting URL: https://nmsu.zoom.us/j/87014463854
Meeting ID: 870 1446 3854
Or
Join the hearing via **phone** Tuesday, August 4, 2026, at 9:00 a.m.:
Phone: 1 669 900 6833 or 1 719 359 4580
Meeting ID: 870 1446 3854

Thursday, August 6, 2026 at 9 a.m., NMDA will host a public, in-person hearing at the CNM Workforce Training Center, located at 5600 Eagle Rock Ave NE, Albuquerque, NM. The hearing will include repeal and replacement, and or amendments to rules 21.17.27 NMAC, 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC, and 21.17.50 NMAC.

Oral and written comments will be accepted at the hearings from members of the public and interested parties. Written comments will be accepted until August 6, 2026, at 5:00 p.m. Comments may be submitted via email to 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

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/Secretary of Agriculture will consider all oral comments and will review all timely submitted written comments and responses.

AVISO DE PROPUESTA DE REGLAMENTACIÓN

POR LA PRESENTE SE NOTIFICA que el Departamento de Agricultura de Nuevo México (NMDA) propone derogar y reemplazar las siguientes normas: 21.17.27 NMAC, CUARENTENA EXTERIOR CONTRA EL ESCARABAJO JAPONÉS; 21.17.51 NMAC, CONTROL DE PLAGAS QUE DESTRUYEN LA MADERA; 21.17.53 NMAC, UNIDADES DE EDUCACIÓN CONTINUA PARA APLICADORES DE PLAGUICIDAS; 21.17.56 NMAC, PLAGUICIDAS DE USO RESTRINGIDO; y 21.17.57 NMAC, M-44 Y EL COLLAR DE PROTECCIÓN PARA GANADO. El NMDA propone modificar la norma 21.17.50 NMAC, PLAGUICIDAS.

PROPÓSITO Y RESUMEN DE LOS PRINCIPALES CAMBIOS PROPUESTOS A LA REGLAMENTACIÓN:

21.17.27 NMAC, CUARENTENA EXTERIOR CONTRA EL ESCARABAJO JAPONÉS
La necesidad de realizar modificaciones extensas requirió la derogación y el reemplazo de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: incorporación de términos adicionales en la sección de definiciones para aclarar los requisitos reglamentarios; ampliación del alcance de las áreas bajo cuarentena por el escarabajo japonés (JB, por sus siglas en inglés), pasando de 36 estados a todos los estados de EE. UU. y provincias canadienses específicas; ampliación del alcance de los artículos regulados para incluir productos adicionales de vivero; exigencia de acuerdos de cumplimiento (emitidos por el NMDA) para el envío de artículos regulados a Nuevo México; otorgamiento de opciones a los departamentos de agricultura de los estados de origen para solicitar al NMDA acuerdos de cumplimiento a nivel de área o para viveros individuales; aclaración de los requisitos de tratamiento para el envío de artículos regulados a Nuevo México; establecimiento de excepciones a los requisitos de acuerdo de cumplimiento para plantas de vivero pequeñas (en contenedores de menos de 10 pulgadas de diámetro) que no sean gramíneas; y requisito de que las plantas de vivero pequeñas (en contenedores de menos de 10 pulgadas de diámetro) que no sean gramíneas sean tratadas y vayan acompañadas de un certificado fitosanitario para su envío a Nuevo México.

21.17.51 NMAC, CONTROL DE PLAGAS QUE DESTRUYEN LA MADERA
Los requisitos de actualización de formato hicieron necesaria la derogación y el reemplazo de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: eliminación de la declaración de uso restringido para reflejar que no todos los termiticidas son productos de uso restringido; alineación de los términos con los de la Ley de Control de Pesticidas (*Pesticide Control Act*), secciones 76.4.18 y siguientes de la NMSA 1978; y aclaración de los tipos de licencia que requieren supervisión directa de los empleados que aplican pesticidas.

21.17.53 NMAC, UNIDADES DE EDUCACIÓN CONTINUA PARA APLICADORES DE PESTICIDAS
Los requisitos de actualización de formato hicieron necesaria la derogación y sustitución de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: actualizaciones de definiciones; aclaración del proceso de aprobación de las Unidades de Educación Continua; e incorporación de los requisitos de recertificación exigidos por la Agencia de Protección Ambiental (EPA), incluido el número de Unidades de Educación Continúa requerido para todas las categorías de aplicadores.

21.17.56 NMAC, PESTICIDAS DE USO RESTRINGIDO
Los requisitos de actualización de formato hicieron necesaria la derogación y sustitución de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: actualizaciones en la redacción y revisión de los requisitos adicionales de registro para distribuidores de pesticidas, a fin de cumplir con las disposiciones de la Agencia de Protección Ambiental (EPA).

21.17.57 NMAC, M-44 Y EL COLLAR DE PROTECCIÓN PARA GANADO
Los requisitos de actualización de formato hicieron necesaria la derogación y sustitución de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: aclaración de los requisitos para los futuros titulares de licencias; y actualización de los requisitos de registro y uso para abordar las inconsistencias en las etiquetas de los productos.

21.17.50 NMAC, PESTICIDAS
Las modificaciones se centran principalmente en actualizar los requisitos para aplicadores de pesticidas a fin de cumplir con las leyes federales de la Agencia de Protección Ambiental (EPA), incluyendo: requisitos de examen para

aplicadores de pesticidas; requisitos reforzados de registro para distribuidores; requisitos de edad mínima para los titulares de licencias de aplicador de pesticidas (18 años); e incorporación de nuevas categorías de aplicadores de pesticidas. Se realizó una revisión general de la redacción de la norma que incluyó actualizaciones de definiciones y un aumento en los requisitos mínimos de cobertura de seguro.

AUTORIDAD LEGAL (Norma 21.17.27 NMAC): Otorgada a la Junta de Regentes de la Universidad Estatal de Nuevo México (*New Mexico State University*) en virtud de la Ley de Control de Plagas (*Pest Control Act*), Capítulo 76, Artículo 6, Secciones 1 a 9 de la Compilación NMSA 1978. AUTORIDAD LEGAL (Reglas 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC y 21.17.50 NMAC): Otorgada a la Junta de Regentes de la Universidad Estatal de Nuevo México (New Mexico State University) en virtud de la Ley de Control de Pesticidas de Nuevo México (New Mexico Pesticide Control Act), Capítulo 76, Artículo 4, Secciones 1 a 39, Compilaciones NMSA 1978.

Se pueden obtener copias del Aviso de Propuesta de Reglamentación y de las reglas propuestas (incluida cualquier información técnica) mediante descarga electrónica desde el sitio web del Departamento de Agricultura de Nuevo México (https://nmdeptag.nmsu.edu); también están disponibles en la oficina del departamento, ubicada en 1050 Stewart Street, Las Cruces, NM.

El martes 4 de agosto de 2026, a las 9:00 a. m., el NMDA celebrará una audiencia pública a la que se podrá asistir en persona, por videoconferencia o por teléfono. La audiencia tendrá lugar en el auditorio Gerald Thomas Hall (Sala 194) del campus de la New Mexico State University, ubicado en 940 College Drive, Las Cruces, NM. La audiencia abordará la derogación y sustitución, y/o las modificaciones de las normas 21.17.27 NMAC, 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC y 21.17.50 NMAC.

Participe en la audiencia por **videoconferencia** el martes 4 de agosto de 2026, a las 9:00 a. m.:
URL de la reunión: https://nmsu.zoom.us/j/87014463854
ID de la reunión: 870 1446 3854
O
Participe en la audiencia por **teléfono** el martes 4 de agosto de 2026, a las 9:00 a. m.:
Teléfono: 1 669 900 6833 o 1 719 359 4580
ID de la reunión: 870 1446 3854

El jueves 6 de agosto de 2026, a las 9:00 a. m., el NMDA celebrará una audiencia pública presencial en el CNM Workforce Training Center, ubicado en 5600 Eagle Rock Ave NE, Albuquerque, NM. La audiencia abordará la derogación y sustitución, y/o las modificaciones de las normas 21.17.27 NMAC, 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC y 21.17.50 NMAC.

En las audiencias se aceptarán comentarios orales y escritos por parte del público y de las partes interesadas. Se aceptarán comentarios por escrito hasta el 6 de agosto de 2026 a las 5:00 p.m. Los comentarios pueden enviarse por correo electrónico a comments@nmda.nmsu.edu o presentarse enviando copias originales a:

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

NECESIDADES ESPECIALES: Si usted es una persona con discapacidad que necesita un lector, un amplificador, un intérprete de lengua de señas cualificado o cualquier otra forma 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 tan pronto como sea posible.

El Director/Secretario de Agricultura tomará en cuenta todos los comentarios orales y revisará todos los comentarios y respuestas por escrito presentados dentro del plazo establecido.

ARTICLE 4
Pesticide Control

76-4-1. Title.

This act [76-4-1 to 76-4-39 (except 76-4-20.1) NMSA 1978] may be cited as the "Pesticide Control Act."

History: 1953 Comp., § 45-25-1, enacted by Laws 1973, ch. 366, § 1.

ANNOTATIONS

Compiler's notes. — Laws 1973, ch. 366, which originally enacted the Pesticide Control Act, is presently compiled as 76-4-1 to 76-4-20, 76-4-21 to 76-4-28, 76-4-30 to 76-4-39 NMSA 1978. Laws 1992, ch. 25, § 1 enacted 76-4-9.1 NMSA 1978 as part of the Pesticide Control Act.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 55.

Exterminator's tort liability for personal injury or death directly resulting from operations, 29 A.L.R.4th 987.

Anticompetitive covenants: aerial spray dust business, 60 A.L.R.4th 965.

Federal pre-emption of state common-law products liability claims pertaining to pesticides, 101 A.L.R. Fed. 887.

76-4-2. Enforcing agency.

The Pesticide Control Act shall be administered and enforced by the state department of agriculture, under the direction of the board of regents, New Mexico state university.

History: 1953 Comp., § 45-25-2, enacted by Laws 1973, ch. 366, § 2.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 20, 21.

3 C.J.S. Agriculture §§ 8 to 24.

76-4-3. Definitions.

As used in the Pesticide Control Act:

A. "equipment" means any type of ground, water or aerial equipment, device or contrivance using motorized, mechanical or pressurized power to apply any pesticide on land and anything that may be growing,

habitating or stored on or in such land, but does not include any pressurized hand-sized household device used by a homeowner to apply a pesticide or any equipment, device or contrivance of which the person who is applying the pesticide on the person's own land is the source of power or energy in making the pesticide application;

B. "board" means the board of regents of New Mexico state university;

C. "department" means the New Mexico department of agriculture;

D. "device" means any instrument or contrivance other than a firearm that is intended for trapping, destroying, repelling or mitigating any pest or any other form of plant or animal life, other than humans and other than bacteria, viruses or other microorganisms on or in any living thing other than plants, but does not include equipment used for the application of pesticides when sold separately therefrom, or traps used to control predators or rodents or sterilization using dry heat or steam;

E. "distribute" means to offer for sale, hold for sale, sell, barter or supply in this state;

F. "environment" includes water, air and land and all plants and every living thing in water, in air and on land and the existing interrelationships;

G. "insect" means any of the numerous small invertebrate animals belonging principally to the class insecta, including beetles, bugs, bees, flies, and to other allied classes of arthropods, including spiders, mites, ticks, millipedes, centipedes and sowbugs;

H. "ingredient statement" means a statement that contains the name and percentage of each ingredient of any pesticide that is intended for one of the purposes under Paragraphs (1) through (4) of Subsection N of this section, and the total percentage of all ingredients in the pesticide not for one of those purposes. If the pesticide contains arsenic in any form, the ingredient statement shall contain a statement of the percentages of total and water-soluble arsenic, calculated as elemental arsenic;

I. "label" means the written, printed or graphic matter on or attached to the pesticide or device or any of its containers or wrappers;

J. "labeling" means all labels and all other written, printed or graphic matter accompanying the pesticide or device at any time; or to which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the department, the United States environmental protection agency, United States departments of agriculture, the interior and health and human services, state agricultural universities and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides;

K. "land" means all land and water areas, including air space, and all living things and all structures, buildings, contrivances and machinery appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation;

L. "person" has the extended meaning ascribed to it in Subsection E of Section 12-2A-3 NMSA 1978;

M. "pest" means any living organism injurious to other living organisms, except humans, viruses, bacteria or other microorganisms in or on other living organisms other than plants, that the board by rule declares to be a pest;

N. "pesticide" means any substance or mixture of substances intended for:

(1) preventing, destroying, repelling or mitigating any pest;

(2) causing the leaves or foliage to drop from a plant, with or without causing abscission;

(3) artificially accelerating the drying of plant tissue; or

(4) accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior, of ornamental or crop plants or the produce thereof, through physiological action, but not including substances that are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants or soil amendments;

O. "pesticide dealer" means any person who distributes highly toxic pesticides, restricted use pesticides or both, which pesticides are restricted by rule to distribution only by licensed pesticide dealers;

P. "pest management consultant" means any individual who offers or supplies technical advice or makes recommendations to the user of highly toxic pesticides, restricted use pesticides or both, which pesticides are restricted by rule to distribution only by licensed pesticide dealers;

Q. "registrant" means a person who has registered any pesticide pursuant to the provisions of the Pesticide Control Act;

R. "restricted use pesticide" means any pesticide or device designated by the board as requiring specific restrictions to prevent unreasonable adverse effects on the environment, including humans, beneficial insect predators and parasites, pollinating insects, animals, crops, wildlife and lands but excluding the pests the pesticide or device is intended to prevent, destroy, control or mitigate;

S. "unreasonable adverse effects on the environment" means an unreasonable risk to humans or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide;

T. "noncommercial applicator" means a person who uses or demonstrates restricted use pesticides and does not qualify as a private applicator and is not required to have a commercial applicator's license;

U. "private applicator" means a certified applicator who uses or supervises the use of any pesticide that is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by the certified applicator or the certified applicator's employer or on the property of another person if applied without compensation other than trading of personal services between producers of agricultural commodities;

V. "public applicator" means a certified applicator who as an employee of a federal, state, county or municipal agency or municipal corporation uses any pesticide that is classified for restricted use or any general use pesticide, when applied to sites or under conditions identified by rule promulgated by the board; and

W. "commercial applicator" means a certified applicator, whether or not the certified applicator is a private applicator with respect to some uses, who for compensation uses or supervises the use of any pesticide for any purpose on any property other than as provided by Sections 76-4-19 and 76-4-20.1 NMSA 1978.

History: 1953 Comp., § 45-25-3, enacted by Laws 1973, ch. 366, § 3; 1979, ch. 394, § 1; 2009, ch. 101, § 1; 2009, ch. 109, § 1.

ANNOTATIONS

The 2009 amendment, effective June 19, 2009, in Subsection L, changed the reference from Section 12-2-2 NMSA 1978 to Section 12-2A-3 NMSA 1978; in Subsection V, after "restricted use", deleted "only by

certified applicators or persons under their direct supervision" and added the remainder of the sentence; and in Subsection W, added the reference to Section 76-4-19 NMSA 1978.

Laws 2009, ch. 101, § 1 and Laws 2009, ch. 109, § 1 enacted identical amendments to this section. The section was set out as amended by Laws 2009, ch. 109, § 1. *See* 12-1-8 NMSA 1978.

76-4-4. Misbranded.

A pesticide or device is misbranded if:

A. its labeling bears any statement, design or graphic representation relative thereto or to its ingredients which is false or misleading;

B. it is contained in a package or other container or wrapping which does not conform to the standards established by the board;

C. it is an imitation of or is distributed under the name of another pesticide or device;

D. any word, statement or other information, required by the Pesticide Control Act or regulations adopted thereunder to appear on the label or labeling, is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or graphic matter in the labeling), and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

E. the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product was intended and if complied with, together with any requirements imposed by the Pesticide Control Act and regulations adopted by the board, are adequate to prevent injury to plants and animals including man, and protect against any unreasonable adverse effects on the environment;

F. the labeling bears any reference to registration under the provisions of the Pesticide Control Act unless such reference is required by regulations adopted pursuant to the Pesticide Control Act;

G. the label does not bear:

(1) the name and address of the producer, registrant or person for whom produced;

(2) the name, brand or trademark under which the pesticide is distributed;

(3) an ingredient statement on that part of the immediate container and on the outside container or wrapper, if there be one through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of purchase. However, the department may permit the ingredient statement to appear prominently on some other part of the container, if the size or form of the container makes it impracticable to place the ingredient statement on the part which is presented or displayed under customary conditions of purchase;

(4) directions for use and a warning or caution statement which are necessary and which, if complied with, would be adequate for the protection of health and protection against injury to plants and animals including man and protection against any unreasonable adverse effects on the environment;

(5) the net weight or measure of the contents;

(6) the registration number assigned the pesticide and the registration number of the person formulating the pesticide by the United States environmental protection agency; and

(7) a statement of the use classification under which the product is registered, if required by federal or state regulations;

H. the pesticide contains any substance or substances in quantities highly toxic to man, as determined by the board unless the label bears, in addition to any other matter required by the Pesticide Control Act:

(1) the skull and crossbones or any other symbol required for registration by the United States environmental protection agency;

(2) the word "POISON" prominently printed in red on a background of distinctly contrasting color; and

(3) a statement of an antidote or practical treatment in case of poisoning by the pesticide;

I. the pesticide container does not bear a label or if the label does not contain all the information required by the Pesticide Control Act and the regulations adopted pursuant to the act, or both;

J. the label for a spray adjuvant fails to state the type or function of the functioning agents; or

K. the label is not printed in English and Spanish, as prescribed by the United States environmental protection agency and by regulations of the board.

History: 1953 Comp., § 45-25-4, enacted by Laws 1973, ch. 366, § 4.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 55.

76-4-5. Prohibited acts.

A. It is unlawful for any person to distribute within the state, to deliver for transportation or transport in intrastate commerce, or between points within this state through any point outside this state, or use any of the following:

(1) any pesticide which has not been registered in accordance with the Pesticide Control Act or regulations adopted pursuant to that act;

(2) any pesticide if any of the claims made for it or any of the directions for its use or other labeling differs from the representations made in connection with its registration, or if the composition as represented in connection with its registration, differs. However, at the discretion of the department, a change in the labeling of a pesticide except changes in the ingredient statement may be made within a registration period without requiring reregistration of the product if the change will not have unreasonable adverse effects on the environment;

(3) any pesticide, unless it is in the unbroken immediate container of the registrant or manufacturer and there is affixed to the container, and to the outside container or wrapper of the retail package, if there is

one through which the required information on the immediate container cannot be clearly read, a label bearing information required in the Pesticide Control Act and the regulations adopted pursuant to that act;

(4) any pesticide which has not been colored or discolored as required by the Pesticide Control Act;

(5) any pesticide which does not meet the professed standard of quantity or quality, as expressed on the labeling under which it is sold, or in which any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent has been wholly or in part abstracted or if any contaminated is misbranded or is present in an amount determined by the department to be a hazard;

(6) any device which is misbranded; or

(7) any pesticide in containers violating regulations adopted pursuant to the Pesticide Control Act, or pesticides found in damaged containers which constituted a hazard to the environment.

B. It is unlawful:

(1) to distribute a restricted use pesticide to any person who is required by law or regulations promulgated pursuant to the Pesticide Control Act to have a permit to use or purchase restricted use pesticides, unless the person or his agent, to whom sale or delivery is made, has a valid permit to use or purchase the kind and quantity of the restricted use pesticide. However, subject to conditions established by the department, such permit may be obtained from any person designated by the department immediately prior to distribution;

(2) for any person to detach, alter, deface or destroy, wholly or in part, any label or labeling provided for in the Pesticide Control Act or regulations adopted pursuant to that act, or to add any substance to, or take any substance from, a pesticide in a manner that may defeat the purpose of the Pesticide Control Act or the regulations adopted thereunder;

(3) for any person to use or cause to be used any restricted use pesticide contrary to directions on the label or to regulations of the board if those regulation differ from or further restrict the labeling;

(4) for any person to use for his own advantage or to reveal, other than to the department, or to the courts of the state in response to a subpoena, or to physicians, or in emergencies to pharmacists and other qualified persons for use in the preparation of a practical treatment including first aid, in case of poisoning, any information relative to formulas of products acquired by authority of the Pesticide Control Act;

(5) for any person to handle, transport, store, display, distribute or use pesticides in such a manner as to endanger man and his environment or to endanger food, feed or any other products that may be transported, stored, displayed or distributed with such pesticides; or

(6) for any person to dispose of, discard or store any pesticides or pesticide containers in a manner that may cause injury to humans, vegetation, crops, livestock, wildlife, pollinating insects or to pollute any water supply or waterway.

History: 1953 Comp., § 45-25-5, enacted by Laws 1973, ch. 366, § 5.

ANNOTATIONS

Cross references. — For penalties, *see* 76-4-34 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 42, 50, 51.

3 C.J.S. Agriculture § 87.

76-4-6. Registration.

A. Each pesticide or device that is distributed within the state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be registered with the department subject to the provisions of the Pesticide Control Act. However, the registration is not required if a pesticide is shipped from one plant or warehouse operated by the same person and used solely at such plant or warehouse as a constituent part to make a pesticide which is registered under the provisions of the Pesticide Control Act.

B. The applicant for registration shall file a statement with the board which includes:

(1) the name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant's;

(2) the name of the pesticide or device;

(3) other necessary information required for completion of the application for registration form;

(4) a complete copy of the labeling accompanying the pesticide or device and a statement of all claims including the directions and precautions for use; and

(5) the use classification of the pesticide, if required by federal or state regulations.

C. The department when it deems it necessary in the administration of the Pesticide Control Act, may require the submission of the complete formula of any pesticide including all ingredients which will prevent, destroy, repel, control or mitigate pests, or which will act as a plant regulator, defoliant, desiccant or those which act as a functioning agent in a spray adjuvant, and all ingredients which do not perform these functions.

D. The department may require a full description of the tests made and the results thereof upon which the claims are based on any pesticide, device or on any pesticide or device on which restrictions are being considered. In the case of renewal of registration, the applicant shall be required to furnish only information which is different from that furnished when the pesticide was registered or reregistered during the previous license year.

E. The board may prescribe other necessary information by regulation.

F. The applicant desiring to register a pesticide or device shall pay an annual prescribed registration fee for each pesticide or device registered.

G. Any registration approved by the department and in effect on December 31 of the year for which a renewal application has been made and the proper fee paid, shall continue in full force and effect until the department notifies the applicant that the registration has been renewed or denied in accord with the provisions of the Pesticide Control Act. Forms for reregistration shall be mailed to registrants at least thirty days prior to the due date.

H. If it appears to the department that the composition of the pesticide warrants the proposed claims for it and if the pesticide or device and its labeling and other material submitted comply with the requirements of the Pesticide Control Act, the department shall register the pesticide or device.

I. All federal, state and county agencies or municipalities shall register all pesticides or devices distributed by them but shall not be required to pay the registration fee.

History: 1953 comp., § 45-25-6, enacted by Laws 1973, ch. 366, § 6.

ANNOTATIONS

Law reviews. — For article, "An Administrative Procedure Act For New Mexico," see 8 Nat. Resources J. 114 (1968).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 42.

3 C.J.S. Agriculture §§ 95, 97.

76-4-7. Experimental use permits.

A. No person shall conduct field tests using a pesticide not registered with the department or a registered pesticide for a use not previously approved in the registration without first having obtained an experimental use permit from the department.

B. Any person may apply to the department for an experimental use permit for a pesticide. The department may issue an experimental use permit if it determines that the applicant needs the permit in order to accumulate information necessary to register a pesticide. The department may refuse to issue an experimental use permit if it determines that issuance of such permit is not warranted or that the pesticide use to be made under the proposed terms and conditions may cause unreasonable adverse effects on the environment.

C. Use of a pesticide under an experimental use permit shall be under the supervision of the department and shall be subject to the terms and conditions and be for the period of time prescribed by the department in the permit.

D. The department may revoke any experimental use permit at any time, if it finds that the terms or conditions of the permit are being violated, or that its terms and conditions are inadequate to avoid unreasonable adverse effects on the environment.

History: 1953 Comp., § 45-25-7, enacted by Laws 1973, ch. 366, § 7; 1979, ch. 394, § 2.

76-4-8. Refusal to register; cancellation; suspension.

A. If it does not appear to the department that the pesticide or device warrants the proposed claims or if the pesticide or device and its labeling and other required material do not comply with the provisions of the Pesticide Control Act or regulations adopted thereunder, the department shall notify the applicant of the manner in which the pesticide, device, labeling or other required material fails to comply with the provisions of the Pesticide Control Act and permit the applicant to make the necessary corrections. If, upon receipt of such notice, the applicant does not make the required changes, the department may refuse to register the pesticide or device.

B. The department may, when it determines that a pesticide or device or its labeling does not comply with the provisions of the Pesticide Control Act or the regulations adopted thereunder, cancel the registration of a pesticide or device.

C. The department shall, when it determines that a situation exists in which the continued use of a pesticide during the time required for cancellation under the Pesticide Control Act would likely result in unreasonable adverse effects on the environment, suspend on their own motion, the registration or a pesticide or device.

History: 1953 Comp., § 45-25-8, enacted by Laws 1973, ch. 366, § 8.

ANNOTATIONS

Cross references. — For stop sale, use or removal order, *see* 76-4-11 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 42.

3 C.J.S. Agriculture §§ 98, 100.

76-4-9. Department to administer and enforce act; board to adopt regulations; scope of regulations.

The department shall administer and enforce the provisions of the Pesticide Control Act and regulations promulgated by the board.

A. The board may after notice and public hearing adopt regulations for carrying out the purpose and provisions of the Pesticide Control Act, including regulations providing for:

(1) declaring as a pest any form of plant or animal life or virus, other than man and other than bacteria, viruses and other microorganisms on or in living man or other living animals, which is injurious to health or the environment;

(2) designating certain pesticides to be highly toxic to any animal including man;

(3) determining standards for identifying pesticides by color, taste, odor or form;

(4) the collection and examination of devices or samples of pesticides for analysis;

(5) requiring pesticide applicators to notify land owners of property adjoining the property to be treated, or in the immediate vicinity thereof, of a proposed application of a pesticide, if such a notice is necessary to carry out the purpose of the Pesticide Control Act; and for a hearing before the director of the department of any objecting owner of property adjoining the property to be treated before the application of the pesticide;

(6) the safe handling, transportation, storage, display, distribution, use and disposal of pesticides and their containers;

(7) establishing standards with respect to the package, container or wrapping in which a pesticide is distributed;

(8) restricting or prohibiting the use of certain types of containers or packages for specific pesticides. These restrictions may apply to type of construction, strength and size or any combination thereof to alleviate danger of spillage, breakage, misuse or any other hazard to the public;

(9) procedures for making pesticide recommendation;

(10) adopting a list of restricted use pesticides for the state or for designated areas within the state;

(11) regulating the time and conditions of distribution, sale or use of the restricted use pesticides;

(12) requiring all persons issued licenses to offer technical advice, to sell or to use restricted use pesticides to maintain records as prescribed by the department;

(13) certification of private applicators;

(14) label requirements of all pesticides required to be registered under provisions of the Pesticide Control Act;

(15) regulating the labeling of devices;

(16) procedures and techniques to be used in sampling land, including agricultural products that are to be consumed by man or animals for pesticide residues;

(17) classifying pesticides for general use, restricted use or both;

(18) prescribing methods to be used in the application of pesticides where the department finds that such regulations are necessary to carry out the purpose and intent of the Pesticide Control Act. Such regulations may relate to the time, manner, methods, materials and amounts and concentrations in connection with the application of the pesticides and may restrict or prohibit use of pesticides in designated areas during specified periods of time and shall encompass all reasonable factors which the department deems necessary to prevent damage or injury by drift or misapplication to plants, including forage plants, or adjacent or nearby lands; wildlife in the adjoining or nearby areas; fish and other aquatic life in waters in reasonable proximity to the area to be treated; and humans, animals or beneficial insects. In issuing such regulations, the board shall give consideration to pertinent research findings and recommendations of other agencies of the state, the federal government or other reliable sources;

(19) requiring any pesticide use dilution to be colored or discolored if it determines that such requirement is feasible and is necessary for the protection of health and the environment;

(20) establishing good pesticide use and handling practices for commercial pesticide applicators;

(21) establishing requirements for supervision of servicemen of structural pest control applicators; and

(22) regulating false or misleading advertisement in the sales or use of pesticides and devices.

B. The board shall adopt regulations that are consistent with regulations of the New Mexico environmental improvement board, the New Mexico water quality control commission and the laws administered by the regulations of the United States environmental protection agency.

C. The department is authorized to specify the quantities and concentrations of restricted use pesticides that may be applied.

History: 1953 Comp., § 45-25-9, enacted by Laws 1973, ch. 366, § 9; 1979, ch. 394, § 3.

ANNOTATIONS

Law reviews. — For article, "Constitutional Limitations on the Exercise of Judicial Functions by Administrative Agencies," see 7 Nat. Resources J. 599 (1967).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 20, 21.

3 C.J.S. Agriculture § 96.

76-4-9.1. State preemption.

Except as otherwise authorized in the Pesticide Control Act, no city, county or other political subdivision of the state and no home rule municipality shall adopt or continue in effect any ordinance, rule, regulation or statute regarding the registration, labeling, distribution, sale, handling, use, application, transportation or disposal of pesticides.

History: Laws 1992, ch. 25, § 1.

ANNOTATIONS

Effective dates. — Laws 1992, ch. 25 contained no effective date provision, but, pursuant to N.M. Const., art IV, § 23, was effective on May 20, 1992.

76-4-10. Sampling and examination of pesticides or devices; residue analysis.

A. The sampling and examination of pesticides or devices shall be made under the direction of the department for the purpose of determining if they comply with the requirements of the Pesticide Control Act.

B. The sampling of land, including agricultural products that are to be consumed by man or animals, may be made by the department to determine if pesticide residues are present that will cause unreasonable adverse effects on the environment or if the residues exceed the tolerance established by the United States environmental protection agency, New Mexico environmental improvement agency [department of environment] or restrictions established by other federal or state regulatory agencies.

History: 1953 Comp., § 45-25-10, enacted by Laws 1973, ch. 366, § 10.

ANNOTATIONS

Bracketed material. — The bracketed material was inserted by the compiler and is not part of the law.

The environmental improvement agency was abolished by Laws 1977, ch. 253, § 5. Section 4 of that act established the health and environment department, consisting of several divisions, including the environmental improvement division. Section 14 of that act provided that all references in law to the agency shall be construed to be references to the environmental improvement division. Laws 1991, ch. 25, § 4

established the department of environment and provided that all references to the environmental improvement division of the health and environment department shall be construed to mean the department of environment.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 53.

3 C.J.S. Agriculture § 99.

76-4-11. "Stop sale, use or removal" order.

When the department has reasonable cause to believe a pesticide or device is being distributed, used, stored or transported in violation of any of the provisions of the Pesticide Control Act or regulations adopted pursuant thereto, the department may issue and serve a written "stop sale, use or removal" order upon the owner or custodian of the pesticide or device. If the owner or custodian is not available to receive the order, the department may attach the order to the pesticide or device and notify the registrant. The pesticide or device shall not be distributed, used or removed until the provisions of the Pesticide Control Act have been complied with and the pesticide or device has been released in writing under conditions specified by the department or the alleged violation has been otherwise disposed of as provided in the Pesticide Control Act by a court of competent jurisdiction.

History: 1953 Comp., § 45-25-11, enacted by Laws 1973, ch. 366, § 11.

ANNOTATIONS

Cross references. — For judicial action after stop sale, use or removal order, *see* 76-4-12 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 42.

76-4-12. Judicial action after "stop sale, use or removal" order.

A. After service of a "stop sale, use or removal" order is made upon any person, that person or the registrant or the department may file an action in a court of competent jurisdiction, in the county in which a violation of the Pesticide Control Act or regulations adopted thereunder is alleged to have occurred, for an adjudication of the alleged violation. The court in such action may issue temporary or permanent injunctions, mandatory or restraining, and such intermediate orders as it deems necessary or advisable. The court may order condemnation of any pesticide or device that does not meet the requirements of the Pesticide Control Act or regulations adopted thereunder.

B. If the pesticide or device is condemned, it shall, after entry of decree, be disposed of by destruction or sale as the court directs. However, the pesticide or device shall not be sold contrary to the provisions of the Pesticide Control Act or regulations adopted thereunder. Upon payment of the costs of the condemnation proceedings and the execution and delivery of a bond as prescribed by the court to assure the pesticide or device shall not be sold or disposed of contrary to the provisions of the Pesticide Control Act or regulations adopted pursuant thereto, the court may direct that the pesticide or device be delivered to the owner thereof for relabeling, reprocessing or otherwise bringing the product into compliance.

C. When a decree of condemnation is entered against the pesticide or device, court costs, fees, storage and other proper expenses shall be awarded against the person, if any, appearing as claimant of the pesticide or device.

History: 1953 Comp., § 45-25-12, enacted by Laws 1973, ch. 366, § 12.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 42.

3 C.J.S. Agriculture § 100.

76-4-13. Pesticide dealer license.

A. It is unlawful for any person to act in the capacity of a pesticide dealer, or advertise as, or assume to act as a pesticide dealer at any time without first having obtained an annual license from the department. A license shall be required for each location or outlet located within this state from which pesticides are distributed. Any manufacturer, registrant or distributor who has no pesticide dealer outlet licensed within this state and who distributes pesticides directly into this state shall obtain a pesticide dealer license for his principal out-of-state location or outlet.

B. Application for a license shall be accompanied by the prescribed annual license fee and shall be on a form provided by the department. The application shall include:

(1) the full name and title of the person applying for the license;

(2) the address of each outlet to be licensed;

(3) the principal business address of the applicant;

(4) the name of a person domiciled in this state authorized to receive and accept service of summons and legal notices of all kinds for the applicant; and

(5) any other necessary information prescribed by the department.

C. Provisions of this section shall not apply to a licensed pesticide applicator who sells pesticides only as an integral part of his pesticide application service when the pesticides are dispensed only through an apparatus used for such pesticide application, or any federal, state or county agency, or municipality which provides pesticides only for its own programs.

D. Each pesticide dealer shall be responsible for the acts of each individual employed by him in the solicitation and sale of pesticides and all claims and recommendations for the use of pesticides. The dealer license shall be subject to denial, suspension or revocation after a hearing for any violation of the Pesticide Control Act or regulations adopted thereunder, whether committed by the dealer or by an officer, agent or employee of the dealer.

History: 1953 Comp., § 45-25-13, enacted by Laws 1973, ch. 366, § 13.

ANNOTATIONS

Cross references. — For grounds for denial, suspension or revocation of license, *see* 76-4-23 NMSA 1978.

76-4-14. Pest management consultant.

No individual shall perform services as a pest management consultant without first obtaining from the department an annual license. Application for a license shall be on a form provided by the department and shall be accompanied by the prescribed fee. Licensed pesticide applicators and operators and employees of federal, state and county agencies, or municipalities, when acting in their official capacities, shall be exempt from this licensing provision.

History: 1953 Comp., § 45-25-14, enacted by Laws 1973, ch. 366, § 14.

76-4-15. Public pest management consultant.

A "public pest management consultant" means any individual who is employed by a governmental agency or municipality to act as a pest management consultant. No person shall act as a public pest management consultant without first obtaining an annual nonfee license from the department. Application for a license shall be on a form provided by the department. The nonfee license shall be valid only when the consultant is acting in that capacity as an employee of his governmental employer. Federal and state employees whose principal responsibilities are in pesticide research shall be exempt from this licensing provision while acting in their official capacities.

History: 1953 Comp., § 45-25-15, enacted by Laws 1973, ch. 366, § 15.

76-4-16. Examinations for pest management consultant license.

The department shall require each applicant for a pest management consultant license or a public pest management consultant license to demonstrate the applicant's knowledge of pesticide laws and regulations, pesticide hazards and the safe distribution, use, application and disposal of pesticides by satisfactorily passing a written examination for the classification for which he has applied, prior to issuing his license. The prescribed examination fee shall be paid for the initial examination and other examinations needed to qualify the applicant to perform services as a pest management consultant. The public pest management consultant shall not be required to pay the examination fee and an examination shall be administered upon request.

History: 1953 Comp., § 45-25-16, enacted by Laws 1973, ch. 366, § 16.

76-4-17. Commercial pesticide applicator license.

A. It is unlawful for any person to engage in the business of applying pesticides at any time to land not owned or occupied by him without a commercial pesticide applicator license issued by the department. The commercial pesticide applicator shall pay an annual prescribed fee for each license issued. Should any apparatus fail to pass inspection making it necessary for an additional inspection to be made, the department

shall require a prescribed inspection fee. In addition to the required inspection, additional inspections may be made to determine if equipment is properly calibrated and maintained in conformance with the Pesticide Control Act and regulations adopted pursuant thereto.

B. Application for a license shall be on a form provided by the department.

C. The department shall not issue a commercial pesticide applicator license until the applicant has passed an examination to demonstrate his knowledge of how to apply pesticides under the classification or classifications he has applied for, and his knowledge of the nature and effect of pesticides he may apply. The department shall charge the prescribed examination fee for the initial examination and other examinations needed to qualify the applicant to apply pesticides.

D. The department shall renew any applicant's license under the classification for which the applicant is certified; provided that the applicant's license is not under a suspension or revocation order and he has met the provisions of the Pesticide Control Act.

E. The department shall not issue a commercial applicator license if it has been determined that:

(1) the applicant has been convicted within the last five years of a felony involving fraud;

(2) the applicant has had revoked within the last two years a previous license authorized by the Pesticide Control Act;

(3) the applicant has been unable to satisfactorily fulfill the certification requirements; or

(4) [the applicant] has had any pesticide application or a license denied, revoked or suspended in any state in the last five years.

F. All applicants for a commercial applicator license shall meet at least one of the following requirements prior to being issued a license and shall file proof of compliance as specified by the department:

(1) documentation of two years of pesticide application experience in the category or related category for which application is being made; or

(2) documentation of one year of pesticide application experience in the category or related category for which application is being made and not less than twenty college credit hours in biological or agricultural sciences.

History: 1953 Comp., § 45-25-17, enacted by Laws 1973, ch. 366, § 17; 1979, ch. 394 § 4.

ANNOTATIONS

Bracketed material. — The bracketed material was inserted by the compiler and it is not part of the law.

Cross references. — For inspection of apparatus, *see* 76-4-26 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 101.

76-4-18. Operator license.

A. It is unlawful for any individual to act as an employee of a commercial pesticide applicator and apply pesticides without having obtained an operator license from the department.

B. The department shall issue an operator license when the applicant has passed an examination to demonstrate his ability to apply pesticides safely and effectively with the type of apparatus and in the classification for which he has applied. The department shall charge the prescribed examination fee for each examination administered.

C. The provisions of this section shall not apply to any individual who is a licensed commercial pesticide applicator.

History: 1953 Comp., § 45-25-18, enacted by Laws 1973, ch. 366, § 18; 1979, ch. 394, § 5.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 101.

76-4-19. Application of act to governmental entities; public applicator's license required.

A. A public applicator shall be subject to the provisions of the Pesticide Control Act and rules adopted pursuant to that act.

B. Public applicators shall be subject to examinations or other licensing provisions as provided in the Pesticide Control Act or by rule promulgated by the board. The department shall issue a limited license without fee to the public applicator who has qualified for the license. The public applicator license shall be valid only when the applicator is acting as an applicator applying pesticides used by federal, state, county or municipal agencies or municipal corporations. Government research personnel shall be exempt from this licensing requirement only when applying general use pesticides to experimental plots.

History: 1953 Comp., § 45-25-19, enacted by Laws 1973, ch. 366, § 19; 1979, ch. 394, § 6; 2009, ch. 101, § 2; 2009, ch. 109, § 2.

ANNOTATIONS

The 2009 amendment, effective June 19, 2009, in Subsection A, at the beginning of the sentence, deleted "All state agencies, federal agencies and municipal corporations or any other governmental agency", added "A public applicator"; and at the end of the sentence, deleted "thereunder concerning the application of pesticides unless exempt under other sections of the Pesticide Control Act"; and added "pursuant that act"; in Subsection B, after "Public applicators", deleted "for agencies listed in this section"; after "examinations", added "or other licensing provisions"; added "or by rule promulgated by the board; after "applicator applying", deleted "or supervising application of restricted use"; and after "pesticides used by", deleted "such entities"; and added "federal, state, county or municipal agencies or municipal corporations".

Laws 2009, ch. 101, § 2 and Laws 2009, ch. 109, § 2 enacted identical amendments to this section. The section was set out as amended by Laws 2009, ch. 109, § 2. *See* 12-1-8 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 43.

3 C.J.S. Agriculture § 101.

76-4-20. Private applicators.

A. No private applicator shall use a restricted use pesticide without first complying with the certification requirements determined by the department as necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator or other persons.

B. In determining these certification requirements, the board shall take into consideration standards of the United States environmental protection agency. Certification requirements for a private applicator to be certified to use restricted use pesticides may include but shall not be limited to the following:

(1) the applicant shall acknowledge that he understands and will abide by the label precautions by signing a dealer's pesticide register. The register shall include the name and address of the private applicator and other information as prescribed by the department. The dealer shall keep a record of all restricted use pesticides distributed to a private applicator;

(2) the applicant shall obtain a user permit prior to purchase and use of the pesticide. The department may issue restricted use pesticide permits to private applicators who have documented the crops, location and acreage on the permit for the seasonal or temporary period for which their permit is issued. User permits shall only be issued for registered or experimental uses and shall be subject to other limitations as specified by the department. The limitations may include limiting the areas of use, the timing or method of application and limiting the amount of the pesticide to that needed to cover the acreage to be treated;

(3) the applicant shall be required to pass a written examination demonstrating his competency with respect to the use and handling of the pesticide or pesticides covered by his certification prior to purchase and use of the product; and

(4) the applicant shall be required to obtain approval from the department for each application involving a specific risk to the environment. The applicant shall submit to the department an application form for a special review permit. The application shall include detailed information on the intended use, the responsible person in charge and the equipment and conditions under which the pesticide application is to be made. The department in reviewing the application for a special review permit may require additional restrictions such as on-site inspection or supervision.

C. The department shall charge the prescribed fee for each certification.

D. If a private applicator does not qualify, the department shall inform the applicant in writing.

E. Private applicator certification shall be valid for a period of not less than three years, established by the board.

History: 1953 Comp., § 45-25-20, enacted by Laws 1973, ch. 366, § 20; 1979, ch. 394, § 7.

76-4-20.1. Noncommercial applicator license.

A. A noncommercial applicator shall not use a restricted use or state restricted use pesticide without having a valid current noncommercial applicator license issued by the department for the license use

categories and subcategories in which the pesticide application is made.

B. Application for an original or renewal license shall be on a form prescribed by the department. An annual prescribed fee shall be charged for each noncommercial applicator license issued.

C. The department shall not issue a noncommercial applicator license until the applicant has passed a written certification examination to demonstrate to the department the applicant's knowledge of how to apply pesticides under the classifications for which the applicant has applied and the applicant's knowledge of the nature and effect of pesticides the applicant may apply under such classifications.

D. The department shall renew any applicant's license under the classification for which the applicant is certified; provided that the applicant's license is not under a suspension or revocation order and the applicant has complied with the provisions of the Pesticide Control Act.

E. Nothing in this section shall imply the right to apply pesticides for hire without first having obtained a commercial applicator license.

History: Laws 1979, ch. 394, § 8; 2009, ch. 101, § 3; 2009, ch. 109, § 3.

ANNOTATIONS

The 2009 amendment, effective June 19, 2009, in Subsection A, at the beginning of the sentence, deleted the phrase "Any person who is not a private applicator, commercial applicator or public applicator, except a person working under their direct supervision" and added the phrase "A noncommercial applicator".

Laws 2009, ch. 101, § 3 and Laws 2009, ch. 109, § 3 enacted identical amendments to this section. The section was set out as amended by Laws 2009, ch. 109, § 3. *See* 12-1-8 NMSA 1978.

76-4-21. Expiration date of licenses.

The board shall set by regulation the expiration date for the annual pesticide registration or any license provided for in the Pesticide Control Act.

History: 1953 Comp., § 45-25-21, enacted by Laws 1973, ch. 366, § 21; 1979, ch. 394, § 9.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 101.

76-4-22. Fees.

A. Fees for the registration of pesticides, the various licenses, inspection of apparatuses and examination of applicants required by the Pesticide Control Act shall be set by the board not to exceed the amount authorized below:

(1)	annual registration fee for each pesticide or device registered, not more than	$150;
(2)	annual pesticide dealer license for each location or outlet within the state or, if there is no outlet in the state, for the principal out-of-state location or outlet, not more than	$100;
(3)	annual pest management consultant license, not more than	$100;
(4)	annual commercial pesticide applicator license, not more than	$100;
(5)	annual operator license, not more than	$75.00;
(6)	annual noncommercial applicator license, not more than	$100;
(7)	private applicator certification or renewal, not more than	$25.00;
(8)	additional inspection required to certify each unit of aircraft, ground or manual equipment that fails to pass inspection, not more than.	$25.00;

and

(9)	examination fee for each examination needed to qualify the applicant as a pest management consultant, commercial pesticide applicator, noncommercial applicator or operator or any combination thereof, not more than	$20.00;

provided that the board may index the amount of a fee for inflation until July 1, 2031 using the consumer price index for all urban consumers: all items published by the United States department of labor.

B. If the application for the renewal of a pesticide registration or any annual license provided for in the Pesticide Control Act is not filed prior to the expiration date of the prior registration or license, the fee for renewal of registration or license shall be double the amount charged for the prior registration or license and shall be paid by the applicant before the renewal registration or license is issued. Any person holding a current valid license may renew the license for the next year without taking an examination unless the department determines that additional knowledge relating to the classification for which the applicant has applied makes a new examination necessary. However, if the license is not renewed within thirty days after expiration, the licensee shall be required to take new certification examinations.

History: 1953 Comp., § 45-25-22, enacted by Laws 1973, ch. 366, § 22; 1979, ch. 394, § 10; 2005, ch. 200, § 1; 2026, ch. 13, § 3.

ANNOTATIONS

The 2026 amendment, effective July 1, 2026, authorized the board of regents of New Mexico state university to impose increases to fees up to the rate of inflation measured in the consumer price index for all urban consumers through the end of fiscal year 2031, and made conforming amendments; in Subsection A, Paragraph A(9), after the semicolon, added the remainder of the paragraph; and in Subsection B, after

"double the amount" deleted "specified in this section" and added "charged for the prior registration or license".

The 2005 amendment, effective June 17, 2005, increased the registration fees in Subsection A(1) through (7) and (9).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 95.

76-4-23. Grounds for denial, suspension or revocation of license, permit or certification; acts constituting a violation of the Pesticide Control Act.

A. The department may deny application for any license, permit or certification or may suspend any license, permit or certification when it has reason to believe that the applicant for or the holder of such license, permit or certification has violated any of the provisions of Subsection B of this section.

B. It is a violation of the Pesticide Control Act for any person to:

(1) make a false or fraudulent claim through any media which misrepresents the effect of material or methods to be used;

(2) make a pesticide recommendation or to use a pesticide in a manner inconsistent with the labeling;

(3) apply known ineffective or improper materials;

(4) operate faulty or unsafe apparatus;

(5) operate in a faulty, careless or negligent manner;

(6) refuse or, after notice, neglect to comply with the provisions of the Pesticide Control Act or the rules and regulations adopted pursuant thereto;

(7) refuse or neglect to keep and maintain the records or to make reports when and as required by the Pesticide Control Act or rules and regulations adopted pursuant thereto;

(8) make false or fraudulent records, invoices or reports;

(9) engage in the business of applying a pesticide on the land of another without having a licensed applicator or operator in direct "on-the-job" supervision;

(10) use fraud or misrepresentation in making an application for a license or renewal of a license;

(11) refuse or neglect to comply with any limitation or restriction on or in a duly issued license or permit;

(12) aid or abet a licensed or an unlicensed person to evade any provision of the Pesticide Control Act, conspire with a licensed or an unlicensed person to evade the provisions of the Pesticide Control Act or allow one's license to be used by an unlicensed person;

(13) make false or misleading statements during or after an inspection concerning any infestation or infection of pests found on land;

(14) impersonate any state, county or city inspector or official;

(15) perform the type of pest control under the conditions and in the locality in which he operates or has operated, whether or not he has previously passed an examination, when not qualified;

(16) use, or supervise the use of, a pesticide which is restricted to use by certified applicators when not qualified as a certified applicator; or

(17) make pesticide recommendations or apply pesticides without having the proper certification or license.

C. Any person who has had a license, permit or certification denied, suspended or revoked by the department may request a hearing before the department. The request for a hearing shall be made within fifteen days of receipt of a certified letter notifying him of the department's action.

History: 1953 Comp., § 45-25-23, enacted by Laws 1973, ch. 366, § 23; 1979, ch. 394, § 11.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 20.

Liability of termite or other pest control or inspection contractor for work or representations, 32 A.L.R.4th 682.

76-4-24. Surety bond or insurance required of commercial pesticide applicators.

The department shall not issue a commercial pesticide applicator license until the applicant has furnished evidence of financial responsibility with the department consisting either of a surety bond or a liability insurance policy or certification thereof, protecting persons who may suffer legal damages as a result of the operations of the applicant. However, the surety bond or liability insurance policy need not apply to damages or injury to land being worked upon by the applicant. The department shall not accept a surety bond or liability insurance policy except from authorized insurers or surplus line brokers authorized to do business in the state.

A. The amount of the surety bond or liability insurance as provided for in this section shall be set by the board. The surety bond or liability insurance shall be maintained, at a sum not less than that specified by the board, at all times during the license period. The department shall be notified ten days prior to any reduction made at the request of the applicant or cancellation of the surety bond or liability insurance by the surety or insurer. The department may accept a liability insurance policy or surety bond in the proper sum which has a deductible clause in an amount prescribed by the board. If the applicant has not satisfied the requirements of the deductible amount in any prior legal claim, such deductible clause shall not be accepted by the department unless the applicant furnishes the department with a surety bond or liability insurance which shall satisfy the amount of the deductible pertaining to all claims that may arise in his application of pesticides.

B. The applicator license shall, whenever the surety bond or insurance policy of the licensee is reduced below the requirements of the Pesticide Control Act and regulations adopted pursuant thereto, be automatically suspended until the surety bond or insurance policy again meets these requirements. The department may retrieve the license plates or decal of the licensee during the period of automatic suspension

and return them only when the licensee has furnished the department with written proof that he is again in compliance.

C. Nothing in the Pesticide Control Act shall be construed to relieve any person from liability for any damage to the person or lands of another caused by the use of pesticides, even though such use conforms to the rules and regulations of the board.

History: 1953 Comp., § 45-25-24, enacted by Laws 1973, ch. 366, § 24.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 101.

76-4-25. Damaged person must file report of loss; contents; time of filing; effect of failure to file.

A. Any person suffering a loss or damage resulting from the use or application by others of any pesticide shall file with the department a verified report of loss setting forth, so far as known to the claimant, the following:

(1) the name and address of the claimant;

(2) the type of land alleged to be injured or damaged;

(3) the name of the person applying the pesticide and allegedly responsible;

(4) the name of the owner or occupant of the property for whom the pesticide application was made; and

(5) additional information as requested by the department.

B. The report must be filed within sixty days from the time that the loss or damage becomes known to the claimant. If a growing crop is alleged to have been damaged, the report must be filed prior to harvest of fifty percent of that crop, unless the loss or damage was not then known. The department may prepare a form to be furnished to persons making a report of alleged damages. This form shall contain other requirements as the department deems necessary. The department may, upon receipt of the alleged damage report, notify the licensee and the owner or lessee of the land or other person who may be charged with the responsibility, of the damages claimed, and furnish copies of the statements as may be requested. The department shall inspect damages whenever possible, and when they determine that the complaint has sufficient merit, they shall make the information available to the person claiming damage and to the person who is alleged to have caused the damage.

C. The filing of a report or the failure to file a report need not be alleged in any complaint which might be filed in a court of law, and the failure to file the report shall not be considered any bar to the maintenance of any action.

D. The failure to file the report shall not be a violation of this act. However, if the person failing to file the report is the only one injured from the use or application of a pesticide by others, the department may, when in

the public interest, refuse to hold a hearing for the denial, suspension or revocation of a license or permit issued under the Pesticide Control Act until the report is filed.

E. Where damage is alleged to have occurred, the claimant shall permit the department, the licensee and his representatives, such as bondsman or insurer, to observe and examine the lands or nontarget organism alleged to have been damaged. Failure of the claimant to permit the observation and examination of the damaged lands shall automatically bar the claim against the licensee.

History: 1953 Comp., § 45-25-25, enacted by Laws 1973, ch. 366, § 25.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 47.

Infliction of emotional distress: toxic exposure, 6 A.L.R.5th 162.

3 C.J.S. Agriculture § 86.

76-4-26. Inspection of equipment.

A. The department shall provide for an annual inspection of any equipment used for the application of pesticides by a commercial pesticide applicator and may require repairs or other changes before the equipment is used to apply pesticides. A list of requirements that the equipment shall meet shall be provided by the department.

B. Any piece of equipment which fails inspection shall have affixed to it an out-of-order seal. The equipment shall not be put back into service until it has passed reinspection and the out-of-order seal is removed by the department. A prescribed inspection fee shall be charged for each reinspection.

History: 1953 Comp., § 45-25-26, enacted by Laws 1973, ch. 366, § 26; 1979, ch. 394, § 12.

76-4-27. License plates or decals for apparatus.

Each licensed apparatus shall be identified by a license plate or decal furnished by the department, at no cost to the licensee. The license plate or decal shall be affixed in a location and manner upon the application apparatus as prescribed by the department.

History: 1953 Comp., § 45-25-27, enacted by Laws 1973, ch. 366, § 27.

76-4-28. Farmer or rancher exemption.

Except for the use of restricted use pesticides the provisions of the Pesticide Control Act relating to licenses and requirements for their issuance shall not apply to any farmer or rancher owner of a ground or manual apparatus applying pesticides for himself or his farmer or rancher neighbors, when he:

A. operates farm or ranch property and operates and maintains pesticide application equipment primarily for his own use;

B. is not regularly engaged in the business of applying pesticides for hire amounting to a principal or regular occupation and he does not publicly solicit business as a pesticide applicator; or

C. operates his pesticide application equipment only in the vicinity of his own property and for the accommodation of his neighbors.

History: 1953 Comp., § 45-25-28, enacted by Laws 1973, ch. 366, § 28.

ANNOTATIONS

76-4-29. Repealed.

ANNOTATIONS

Repeals. — Laws 1979, ch. 394, § 15, repealed 76-4-29 NMSA 1978, as enacted by Laws 1973, ch. 366, § 29, relating to the exemption of landscape gardeners from the provisions of the Pesticide Control Act.

76-4-30. Discarding and storing of pesticides and pesticide containers.

No person shall discard, transport or distribute any pesticide or pesticide container in a manner that may cause injury to humans, vegetation, crops, livestock, wildlife or beneficial insects or pollute any waterway.

History: 1953 Comp., § 45-25-30, enacted by Laws 1973, ch. 366, § 30.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 42.

76-4-31. Access to public or private premises.

A. For the purpose of carrying out the provisions of the Pesticide Control Act, the department is authorized upon presentation of proper identification and with consent of the owner or by court order, to enter any public or private premises, in order to:

(1) inspect any apparatus subject to the Pesticide Control Act and the premises on which the apparatus is kept or stored;

(2) inspect lands actually or reported to be exposed to pesticides;

(3) inspect storage or disposal areas;

(4) inspect or investigate complaints of injury to humans or land;

(5) sample pesticides being applied or to be applied; or

(6) sample land, including agricultural products, for pesticide residues.

B. If it appears that a pesticide apparatus or device fails to comply with the provisions of the Pesticide Control Act or regulations adopted thereunder, and if the department contemplates instituting proceedings against any person, the department shall cause notice to be given to the person. Any person so notified shall be given an opportunity to present his views, either orally or in writing, with regard to the contemplated proceedings. If thereafter, in the opinion of the department, it appears that the provisions of the Pesticide Control Act or regulations adopted thereunder have been violated by the person, the department shall refer a copy of the results of the analysis or the examination of the pesticide apparatus or device to the district attorney for the county in which the violation occurred. It is the duty of the district attorney to whom any violation of the Pesticide Control Act is reported to cause appropriate proceedings to be instituted and prosecute in a court of competent jurisdiction without delay.

C. Nothing in the Pesticide Control Act shall be construed as requiring the department to report, for prosecution or the institution of condemnation proceedings, minor violations of the Pesticide Control Act when the department believes that the public interest will be best served by a notice of warning in writing.

D. Should the department be denied access to any land where access was sought for the purposes set forth in the Pesticide Control Act, they may apply to any court of competent jurisdiction for a search warrant for the purpose requested.

History: 1953 Comp., § 45-25-31, enacted by Laws 1973, ch. 366, § 31.

ANNOTATIONS

Cross references. — For inspection of apparatus, *see* 76-4-26 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 42, 50.

3 C.J.S. Agriculture § 83.

76-4-32. Classification of licenses.

A. The department may classify licenses to be issued under the Pesticide Control Act. Such classifications may include recommending pesticides to be used in or on land, including but not limited to agricultural crops, ornamentals, structures and noncrop land or to treat regulated products or equipment. If the licensee has a classified license, he shall be limited to practicing within such classification. Each classification shall be subject to separate testing procedures and requirements. No person shall be required to pay an additional license fee if he desires to be licensed in one or all of the license classifications.

B. The department may classify pesticide applicator and operator licenses to be issued under the Pesticide Control Act. the classifications may include, but not be limited to pest control operations, fumigators, ornamental or agricultural pesticide applicators or right-of-way pesticide applicators. Separate classifications may be specified for ground, aerial or manual methods used by any licensee to apply pesticides or to the use of pesticides to control pests. Each classification shall be subject to separate testing procedures and

requirements. No person shall be required to pay an additional license fee if the person desires to be licensed in one or all of the license classifications.

History: 1953 Comp., § 45-25-32, enacted by Laws 1973, ch. 366, § 32.

ANNOTATIONS

76-4-33. Records.

A. Any person issued a license or permit under the provisions of the Pesticide Control Act shall keep such records as required by regulation of the board.

B. Commercial pesticide applicators licensed under the provisions of the Pesticide Control Act shall keep such records as prescribed by regulation of the board.

C. The department shall have access to the records at any reasonable time to copy or make copies of the records for the purpose of carrying out the provisions of the Pesticide Control Act. Unless required for the enforcement of the Pesticide Control Act, the information shall be confidential and, if summarized, shall not identify any individual person.

History: 1953 Comp., § 45-25-33, enacted by Laws 1973, ch. 366, § 33.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 95.

76-4-34. Penalties.

A. Any person violating any provision or requirement of the Pesticide Control Act or regulations adopted by the board pursuant to that act is guilty of a petty misdemeanor.

B. In addition to any other penalties imposed by the Pesticide Control Act, any person who willfully or repeatedly violates any provision of that act may be assessed by the court a civil penalty not to exceed one thousand dollars ($1,000) for each violation.

C. The board may bring an action to enjoin the violation or threatened violation of any provision of the Pesticide Control Act or any regulation made pursuant thereto in a court of competent jurisdiction of the county in which the violation occurs or is about to occur.

D. The department, acting as a law enforcement officer, is authorized to file a criminal complaint in a magistrate court for violations of the Pesticide Control Act or regulations adopted pursuant thereto and shall not be required to pay the docket fee.

History: 1953 Comp., § 45-25-34, enacted by Laws 1973, ch. 366, § 34; 1979, ch. 394, § 13.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 42, 50, 51.

3 C.J.S. Agriculture § 7.

76-4-35. Persons exempted from certain penalties.

A. The penalties provided for violations of Paragraphs (1) through (5) of Subsection A of Section 5 [76-4-5 NMSA 1978] of the Pesticide Control Act shall not apply to:

(1) any carrier while lawfully engaged in transporting a pesticide within this state, if such carrier shall, upon request, permit the department to copy all records showing the transactions in and movement of the pesticides or devices;

(2) public officials of this state and the federal government while engaged in the performance of their official duties in administering state or federal pesticide laws or regulations or while engaged in pesticide research; or

(3) the manufacturer or shipper of a pesticide for experimental use only by or under the supervision of an agency of this state or of the federal government authorized by law to conduct research in the field of pesticides if the manufacturer or shipper holds a valid experimental use permit issued by the department and by the United States environmental protection agency.

B. No pesticide or device shall be deemed in violation of the Pesticide Control Act when intended solely for export to a foreign country and when prepared or packed according to the specifications or directions of the purchaser. If not so exported, all the provisions of the Pesticide Control Act and regulations adopted thereunder shall apply.

History: 1953 Comp., § 45-25-35, enacted by Laws 1973, ch. 366, § 35.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 21, 66.

3 C.J.S. Agriculture § 53.

76-4-36. Repealed.

History: 1953 Comp., § 45-25-36, enacted by Laws 1973, ch. 366, § 36; 1977, ch. 253, § 49; 1978, ch. 39, § 1; 1979, ch. 394, § 14; 1983, ch. 296, § 29; repealed Laws 2005, ch. 235, § 1.

ANNOTATIONS

Repeals. — Laws 2005, ch. 235, § 1 repealed 76-4-36 NMSA 1978, as enacted by Laws 1973, ch. 366, § 36, relating to the pesticide advisory board, effective June 17, 2005. For provisions of former section, *see*

the 2004 NMSA 1978 on *NMOneSource.com*.

76-4-37. Publication of information.

The department may publish, in the form it deems proper, results of products analyzed, based on official samples as compared with the guaranteed analysis and information concerning the distribution and use of pesticides. Individual distribution and use information shall not be a public record. The department may also publish results of samples analyzed for pesticide residues.

History: 1953 Comp., § 45-25-37, enacted by Laws 1973, ch. 366, § 37.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 95.

76-4-38. Cooperation.

The department may cooperate, receive grants-in-aid and enter into cooperative agreements with any agency of the federal government, of this state or its subdivisions, or with any agency of another state, in order to:

A. secure uniformity of regulations;

B. enter into cooperative agreements with the United States environmental protection agency to register pesticides under the authority of the Pesticide Control Act and the federal Environmental Pesticide Control Act;

C. cooperate in the enforcement of the federal Environmental Pesticide Control Act and regulations through the use of state or federal personnel and facilities or both and to implement cooperative enforcement programs including but not limited to the registration of pesticides, collection and analysis of pesticides and devices, inspection of storage facilities and certification of applicators;

D. enter into contracts with other agencies including federal agencies for the purpose of training pesticide dealers, pesticide management consultants, pesticide applicators or operators;

E. publish information and conduct short courses on the storage, transportation, distribution, application, use, registration and disposal of pesticides and devices and environmental implications thereof;

F. enter into contracts for either monitoring pesticides, or analyzing land, including agricultural products that will be consumed by any living organism other than plants, for pesticide residues, or both;

G. prepare and submit a state plan to meet federal certification standards including issuing experimental use permits; and

H. regulate pesticide applicators and operators.

History: 1953 Comp., § 45-25-38, enacted by Laws 1973, ch. 366, § 38.

ANNOTATIONS

Cross references. — For the federal Environmental Pesticide Control Act, *see* 7 U.S.C. § 136 et seq.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 22 to 37, 43.

3 C.J.S. Agriculture §§ 25 to 56.

76-4-39. Disposition of funds.

All moneys received by the department under the provisions of the Pesticide Control Act shall be expended for the purpose of carrying out the provisions of the Pesticide Control Act.

History: 1953 Comp., § 45-25-39, enacted by Laws 1973, ch. 366, § 39.

ANNOTATIONS

Severability. — Laws 1973, ch. 366, § 43, provided for the severability of the act if any part or application thereof is held invalid.

Comments

Pesticides Amendment —
NMAC 21.17.50 Public Comments

Name: Teri Cates

Email: tericates@yahoo.com

Submitted on: August 4, 2026, 5:54 PM

Comments: I am the commercial applicator for my small pest management business. I recently had my son test and get his commercial operator/ technician license. He is currently 16 years old and planning on taking over the family business one day. The rule change says "pesticide applicator license" will be limited to persons 18 years of age. So I'm wondering if my son will be able to keep his operator/ technician license when the rule change goes into effect. Or if he could be grandfathered in with the provision of not using any restricted use products.

Hearing Sign-In Sheets

Japanese Beetle +

PESTICIDES RULEMAKING HEARING

PROJECT: NMDA Rulemaking **MEETING DATE:** August 4, 2026

FACILITATOR: Les Owen/Brad Lewis **LOCATION:** ~~Albuquerque~~ Las Cruces, NM

NAME	PHONE (OPTIONAL)	EMAIL (OPTIONAL)
Teri Cates	575-740-2980	tericates@yahoo.com
MARGARET Adams	575 635-5476	peggy.adams@bugyman.com

Japanese Beetle Quarantine Rule +

PESTICIDES RULEMAKING HEARING

PROJECT:	NMDA Rulemaking	**MEETING DATE:**	August 6, 2026
FACILITATOR:	Les Owen/Brad Lewis	**LOCATION:**	Albuquerque, NM

NAME	PHONE (OPTIONAL)	EMAIL (OPTIONAL)
Alan ~~Feuer~~ Feuer	505 918 3121 ~~301~~	ALAN@PPCABQ.Com
Kyleigh Serna		kserna@plantworldinc.com
Dixie Mussaw	505-227-1701	Dixie.Mussaw@heritageppg.com
Chris Benavidez	505-254-1133	cbenavidez@plantworldinc.com
John Crowley	505.307.8695	John.Crowley@Monrovia.Com

SIGNATURE: In witness whereof, we have caused the seal of the Board of Regents of New Mexico State University to be affixed this 1st day of October 2026, for approval of:

Proposed Amendment to the Pesticides Rule, Title 21, Chapter 17, Part 50 of the New Mexico Administrative Code (21.17.50 NMAC).

_____

Ammu Devasthali, Chair
Board of Regents
New Mexico State University

Attest:

_____

Christopher Saucedo, Sec./Treasurer
Board of Regents
New Mexico State University

Board of Regents Meeting
Meeting Date: October 1, 2026
Agenda Item Cover Page

Agenda Item # IX.G

☐ Action Item
☒ Consent Item
☐ Informational Item

Presented By:
Jeff M. Witte
Director/Secretary New Mexico Department of Agriculture (NMDA)

Agenda Item:

Proposed Repeal and Replacement of the Restricted-Use Pesticides Rule, Title 21, Chapter 17, Part 56 of the New Mexico Administrative Code (21.17.56 NMAC)

Requested Action of the Board of Regents:

Approval of Repeal and Replacement of 21.17.56 NMAC, Restricted-Use Pesticides Rule.

Executive Summary:

The New Mexico Department of Agriculture (NMDA) held two hearings regarding the proposed repeal and replacement of 21.17.56 NMAC. On Tuesday, August 4, 2026, at 9 a.m. a public video/telephonic and in-person hearing was held at Gerald Thomas Hall Auditorium (Rm 194), New Mexico State University, located at 940 College Drive in Las Cruces, NM 88003. On Thursday, August 6, 2026, at 9 a.m. an in-person hearing was held at the CNM Workforce Training Center located at 5600 Eagle Rock Ave, NE in Albuquerque, NM 87113.

The Rulemaking Notice was published in the New Mexico Register on June 23, 2026. Notice was provided to the Sunshine Portal, in the Santa Fe New Mexican (both English and Spanish), the Albuquerque Journal, The Las Cruces Sun News, and the NMDA website. Notification and the proposed rule were sent to the New Mexico Economic Development's Small Business Regulatory Advisory Commission and to Legislative Council Service. NMDA has not received findings from either. Notice of public hearings was also sent to pesticide licensed individuals and businesses impacted by the amendments; to the Pest Management Association, a state industry organization representing licensed pesticide applicators; and to the Household Consumer Product Association, a national industry organization representing pesticide manufacturers.

The hearing officer provided the following information for my consideration. I agree with the hearing officer's recommendation and thereby recommend the following for your consideration.

Hearing Officer's Report

This memorandum serves as a summary of the hearings conducted on August 4 and 6, 2026. The information is presented for your review and to assist you in formulating a

recommendation to the New Mexico State University Board of Regents regarding the adoption of the proposed repeal and replacement of the Restricted-Use Pesticides Rule, Title 21, Chapter 17, Part 56 of the New Mexico Administrative Code.

Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: updates to language and revision of additional pesticide dealer record requirements to comply with Environmental Protection Agency.

Given the extensive outreach that was done and the absence of public comments, it is my recommendation that the proposed repeal and replacement of 21.17.56 NMAC be adopted without changes.

References:

Section 76-1-2C NMSA 1978, authorizes the board of regents of New Mexico State University, relative to the New Mexico Department of Agriculture, the authority to adopt and file in compliance with the State Rules Act [Chapter 14, Article 4 NMSA 1978], regulations as may be necessary to carry out its duties.

Prior Approvals:

Agenda Item Approved By:

Each office may determine required signatures (if any). All items should be routed through the President's Office, University General Counsel, or the Secretary of NMDA as appropriate.



9/15/2026

_____ _____

Jeff M. Witte Date
Director/Secretary

RULEMAKING PACKET-
BOARD OF REGENTS

Restricted-Use Pesticides

NMDA
New Mexico Department of Agriculture

Official Record

New Mexico Department of Agriculture

Repeal and Replace 21.17.56 NMAC

NMDA Rulemaking

October 1, 2026

NMDA
New Mexico Department of Agriculture

NMDA Rulemaking
21.17.56 NMAC

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Director/Secretary Recommendation Memo

NEW MEXICO DEPARTMENT OF AGRICULTURE
Office of the Director/Secretary
MSC 3189
New Mexico State University
P.O. Box 30005
Las Cruces, NM 88003-8005
Phone: (575) 649-0505

September 10, 2026

MEMORANDUM

TO: New Mexico State University Board of Regents

FROM: Jeff M. Witte, Director/Secretary

SUBJECT: Recommendation to Adopt the Hearing Officer's Recommendation
RE: New Mexico Department of Agriculture Hearings on Proposed Repeal and Replacement of the Restricted-Use Pesticides Rule, Title 21, Chapter 17, Part 56 of the New Mexico Administrative Code (21.17.56 NMAC) (Attached)

BACKGROUND INFORMATION

The New Mexico Department of agriculture (NMDA) held two hearings regarding the proposed repeal and replacement of 21.17.56 NMAC, Restricted-Use Pesticides. On Tuesday, August 4, 2026, at 9 a.m. a public video/telephonic and in-person hearing was held at Gerald Thomas Hall Auditorium (Rm 194), New Mexico State University, located at 940 College Drive in Las Cruces, NM 88003. On Thursday, August 6, 2026, at 9 a.m. an in-person hearing was held at the CNM Workforce Training Center located at 5600 Eagle Rock Ave, NE in Albuquerque, NM 87113.

The Rulemaking Notice was published in the New Mexico Register on June 23, 2026. Notice was provided to the Sunshine Portal, in the Santa Fe New Mexican (both English and Spanish), the Albuquerque Journal, The Las Cruces Sun News, and the NMDA website. Notification and the proposed rules were sent to the New Mexico Economic Development's Small Business Regulatory Advisory Commission and to Legislative Council Service. NMDA has not received findings from either. Notice of public hearings was also sent to pesticide licensed individuals and businesses impacted by the amendments; to the Pest Management Association, a state industry organization representing licensed pesticide applicators; and to the Household Consumer Product Association, a national industry organization representing pesticide manufacturers.

The hearing officer provided the following information for my consideration. I agree with the hearing officer's recommendation and thereby recommend the following for your consideration.

HEARING OFFICER'S REPORT

This memorandum serves as a summary of the hearings conducted on August 4 and 6, 2026. The information is presented for your review and to assist you in formulating a recommendation to the New Mexico State University Board of Regents regarding the adoption of the proposed repeal and replacement of the Restricted-Use Pesticides Rule, Title 21, Chapter 17, Part 56 of the New Mexico Administrative Code.

Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: updates to language and revision of additional pesticide dealer record requirements to comply with Environmental Protection Agency.

Given the extensive outreach that was done and the absence of public comments, it is my recommendation that the proposed repeal and replacement of 21.17.56 NMAC be adopted without changes.

Initial Proposed Rule

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
[12/1/1996; 21.17.56.1 NMAC - Rn, 21 NMAC 17.56.1, 2/28/2007; A, 5/29/2009]
[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.
[11/29/1979, 3/27/80; 21.17.56.2 NMAC - Rn, 21 NMAC 17.56.2, 2/28/2007]

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.
[11/29/1979; 21.17.56.3 NMAC - Rn, 21 NMAC 17.56.3, 2/28/2007]

21.17.56.4 DURATION: Permanent.
[12/1/1996; 21.17.56.4 NMAC - Rn, 21 NMAC 17.56.4, 2/28/2007]

21.17.56.5 EFFECTIVE DATE: [~~December 1, 1996~~] April 01, 2027, unless a later date is cited at the end of a section.
[12/1/1996; 21.17.56.5 NMAC - Rn & A, 21 NMAC 17.56.5, 2/28/2007]

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.
[3/19/84, 5/18/87, 2/19/1988; 21.17.56.6 NMAC - Rn & A, 21 NMAC 17.56.6, 2/28/2007]

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.
[4/10/1974, 9/15/1975, 11/29/1979; 21.17.56.8 NMAC - Rn, 21 NMAC 17.56.8, 2/28/2007]

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.
[5/18/1987; 21.17.56.9 NMAC - Rn, 21 NMAC 17.56.9, 2/28/2007]

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 [~~knowingly~~] 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.

[11/29/1979, 12/1/1996; 21.17.56.10 NMAC - Rn, 21 NMAC 17.56.10, 2/28/2007]

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:

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 [~~primarily~~] for use on agronomic crops, range or pasture lands, rights-of-way, forest, or non-croplands. Those products labeled ~~[primarily]~~ 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.

[11/29/1979, 12/1/1996; 21.17.56.11 NMAC - Rn & A, 21 NMAC 17.56.11, 2/28/2007]

21.17.56.12-13 [RESERVED]

[5/18/87, 3/30/89, R, 12/1/1996; 21.17.56.12-13 NMAC - Rn, 21 NMAC 17.56.12-13, 2/28/2007]

21.17.56.14 [RESERVED]

[1/21/1979, 11/29/1979, 3/27/1980, 5/18/1987, 2/19/1988, 3/30/1989, 12/1/1996; 21.17.56.14 NMAC - Rn & A, 21 NMAC 17.56.14, 2/28/2007; Repealed, 08/16/2010]

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, [~~CFR 140~~] 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 [~~CFR~~] code of federal regulations Part 170, the federal worker protection standard.

[11/29/1979, 3/27/80, 5/18/1987; 21.17.56.15 NMAC - Rn & A, 21 NMAC 17.56.15, 2/28/2007; A, 08/16/2010]

21.17.56.16 DEALER RECORDS [RESERVED]

[4/10/74, 11/29/1979, 5/18/87; R, 12/1/1996; 21.17.56.16 NMAC - Rn, 21 NMAC 17.56.16, 2/28/2007]

[New Material]

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.

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]

Final Adopted Rule

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
[12/1/1996; 21.17.56.1 NMAC - Rn, 21 NMAC 17.56.1, 2/28/2007; A, 5/29/2009]
[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.
[11/29/1979, 3/27/80; 21.17.56.2 NMAC - Rn, 21 NMAC 17.56.2, 2/28/2007]

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.
[11/29/1979; 21.17.56.3 NMAC - Rn, 21 NMAC 17.56.3, 2/28/2007]

21.17.56.4 DURATION: Permanent.
[12/1/1996; 21.17.56.4 NMAC - Rn, 21 NMAC 17.56.4, 2/28/2007]

21.17.56.5 EFFECTIVE DATE: April 01, 2027, unless a later date is cited at the end of a section.
[12/1/1996; 21.17.56.5 NMAC - Rn & A, 21 NMAC 17.56.5, 2/28/2007]

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.
[3/19/84, 5/18/87, 2/19/1988; 21.17.56.6 NMAC - Rn & A, 21 NMAC 17.56.6, 2/28/2007]

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.
[4/10/1974, 9/15/1975, 11/29/1979; 21.17.56.8 NMAC - Rn, 21 NMAC 17.56.8, 2/28/2007]

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.
[5/18/1987; 21.17.56.9 NMAC - Rn, 21 NMAC 17.56.9, 2/28/2007]

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.
[11/29/1979, 12/1/1996; 21.17.56.10 NMAC - Rn, 21 NMAC 17.56.10, 2/28/2007]

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.

[11/29/1979, 12/1/1996; 21.17.56.11 NMAC - Rn & A, 21 NMAC 17.56.11, 2/28/2007]

21.17.56.12-13 [RESERVED]

[5/18/87, 3/30/89, R, 12/1/1996; 21.17.56.12-13 NMAC - Rn, 21 NMAC 17.56.12-13, 2/28/2007]

21.17.56.14 [RESERVED]

[1/21/1979, 11/29/1979, 3/27/1980, 5/18/1987, 2/19/1988, 3/30/1989, 12/1/1996; 21.17.56.14 NMAC - Rn & A, 21 NMAC 17.56.14, 2/28/2007; Repealed, 08/16/2010]

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.

[11/29/1979, 3/27/80, 5/18/1987; 21.17.56.15 NMAC - Rn & A, 21 NMAC 17.56.15, 2/28/2007; A, 08/16/2010]

21.17.56.16 DEALER RECORDS [RESERVED]

[4/10/74, 11/29/1979, 5/18/87; R, 12/1/1996; 21.17.56.16 NMAC - Rn, 21 NMAC 17.56.16, 2/28/2007]

[New Material]

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.

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]

Hearing Officer Recommendation Memo

NEW MEXICO DEPARTMENT OF AGRICULTURE
Office of the Director/Secretary
MSC 3189
New Mexico State University
P.O. Box 30005
Las Cruces, NM 88003-8005
Phone: (575) 649-0505

September 4, 2026

MEMORANDUM

TO: Director/Secretary Jeff M. Witte

FROM: Les Owen, Deputy Director – Hearing Officer

SUBJECT: Hearing Officer Report – RE: New Mexico Department of Agriculture Hearing on Proposed Repeal and Replacement of 21.17.56 NMAC, Restricted-Use Pesticides.

BACKGROUND INFORMATION

The New Mexico Department of agriculture (NMDA) held two hearings regarding the proposed repeal and replacement of 21.17.56 NMAC, Restricted-Use Pesticides. On Tuesday, August 4, 2026, at 9 a.m. a public video/telephonic and in-person hearing was held at Gerald Thomas Hall Auditorium (Rm 194), New Mexico State University, located at 940 College Drive in Las Cruces, NM 88003. On Thursday, August 6, 2026, at 9 a.m. an in-person hearing was held at the CNM Workforce Training Center located at 5600 Eagle Rock Ave, NE in Albuquerque, NM 87113.

The Rulemaking Notice was published in the New Mexico Register on June 23, 2026. Notice was provided to the Sunshine Portal, in the Santa Fe New Mexican (both English and Spanish), the Albuquerque Journal, The Las Cruces Sun News, and the NMDA website. Notification and the proposed rules were sent to the New Mexico Economic Development's Small Business Regulatory Advisory Commission and to Legislative Council Service. NMDA has not received findings from either. Notice of public hearings was also sent to pesticide licensed individuals and businesses impacted by the amendments; to the Pest Management Association, a state industry organization representing licensed pesticide applicators; and to the Household Consumer Product Association, a national industry organization representing pesticide manufacturers.

The hearing officer provides the following information for consideration by NMDA's director/secretary.

SUMMARY OF PRIMARY PROPOSED RULE CHANGES

Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: updates to language and revision of additional pesticide dealer record requirements to comply with Environmental Protection Agency.

See Exhibit 1 for the strikethrough version of 21.17.56 NMAC, Restricted-Use Pesticides and Exhibit 2 for the rule with integrated changes that these hearings cover.

PUBLIC COMMENT

There were 8 virtual and 1 in-person participants at the hearing held in Las Cruces and 5 in-person at the Albuquerque hearing. No public comments, written or oral, were received at either location or online.

HEARING OFFICER'S CONCLUSION

This memorandum serves as a summary of the hearings conducted on August 4 and 6, 2026. The information is presented for your review and to assist you in formulating a recommendation to the New Mexico State University Board of Regents regarding the adoption of the proposed repeal and replacement of the Restricted-Use Pesticides Rule, Title 21, Chapter 17, Part 56 of the New Mexico Administrative Code.

Given the extensive outreach that was done and the absence of public comments, it is my recommendation that the proposed repeal and replacement of 21.17.56 NMAC be adopted without changes.

Please contact me if you have any questions.

EXHIBIT 1

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
[12/1/1996; 21.17.56.1 NMAC - Rn, 21 NMAC 17.56.1, 2/28/2007; A, 5/29/2009]
[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.
[11/29/1979, 3/27/80; 21.17.56.2 NMAC - Rn, 21 NMAC 17.56.2, 2/28/2007]

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.
[11/29/1979; 21.17.56.3 NMAC - Rn, 21 NMAC 17.56.3, 2/28/2007]

21.17.56.4 DURATION: Permanent.
[12/1/1996; 21.17.56.4 NMAC - Rn, 21 NMAC 17.56.4, 2/28/2007]

21.17.56.5 EFFECTIVE DATE: [~~December 1, 1996~~] April 01, 2027, unless a later date is cited at the end of a section.
[12/1/1996; 21.17.56.5 NMAC - Rn & A, 21 NMAC 17.56.5, 2/28/2007]

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.
[3/19/84, 5/18/87, 2/19/1988; 21.17.56.6 NMAC - Rn & A, 21 NMAC 17.56.6, 2/28/2007]

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.
[4/10/1974, 9/15/1975, 11/29/1979; 21.17.56.8 NMAC - Rn, 21 NMAC 17.56.8, 2/28/2007]

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.
[5/18/1987; 21.17.56.9 NMAC - Rn, 21 NMAC 17.56.9, 2/28/2007]

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 [~~knowingly~~] 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.

[11/29/1979, 12/1/1996; 21.17.56.10 NMAC - Rn, 21 NMAC 17.56.10, 2/28/2007]

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:

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 [~~primarily~~] for use on agronomic crops, range or pasture lands, rights-of-way, forest, or non-croplands. Those products labeled [~~primarily~~] 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.

[11/29/1979, 12/1/1996; 21.17.56.11 NMAC - Rn & A, 21 NMAC 17.56.11, 2/28/2007]

21.17.56.12-13 [RESERVED]

[5/18/87, 3/30/89, R, 12/1/1996; 21.17.56.12-13 NMAC - Rn, 21 NMAC 17.56.12-13, 2/28/2007]

21.17.56.14 [RESERVED]

[1/21/1979, 11/29/1979, 3/27/1980, 5/18/1987, 2/19/1988, 3/30/1989, 12/1/1996; 21.17.56.14 NMAC - Rn & A, 21 NMAC 17.56.14, 2/28/2007; Repealed, 08/16/2010]

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, [~~CFR 140~~] 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 [~~CFR~~] code of federal regulations Part 170, the federal worker protection standard.

[11/29/1979, 3/27/80, 5/18/1987; 21.17.56.15 NMAC - Rn & A, 21 NMAC 17.56.15, 2/28/2007; A, 08/16/2010]

21.17.56.16 DEALER RECORDS [RESERVED]

[4/10/74, 11/29/1979, 5/18/87; R, 12/1/1996; 21.17.56.16 NMAC - Rn, 21 NMAC 17.56.16, 2/28/2007]

[New Material]

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.

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.

EXHIBIT 2

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
[12/1/1996; 21.17.56.1 NMAC - Rn, 21 NMAC 17.56.1, 2/28/2007; A, 5/29/2009]
[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.
[11/29/1979, 3/27/80; 21.17.56.2 NMAC - Rn, 21 NMAC 17.56.2, 2/28/2007]

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.
[11/29/1979; 21.17.56.3 NMAC - Rn, 21 NMAC 17.56.3, 2/28/2007]

21.17.56.4 DURATION: Permanent.
[12/1/1996; 21.17.56.4 NMAC - Rn, 21 NMAC 17.56.4, 2/28/2007]

21.17.56.5 EFFECTIVE DATE: April 01, 2027, unless a later date is cited at the end of a section.
[12/1/1996; 21.17.56.5 NMAC - Rn & A, 21 NMAC 17.56.5, 2/28/2007]

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.
[3/19/84, 5/18/87, 2/19/1988; 21.17.56.6 NMAC - Rn & A, 21 NMAC 17.56.6, 2/28/2007]

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.
[4/10/1974, 9/15/1975, 11/29/1979; 21.17.56.8 NMAC - Rn, 21 NMAC 17.56.8, 2/28/2007]

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.
[5/18/1987; 21.17.56.9 NMAC - Rn, 21 NMAC 17.56.9, 2/28/2007]

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.
[11/29/1979, 12/1/1996; 21.17.56.10 NMAC - Rn, 21 NMAC 17.56.10, 2/28/2007]

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.

[11/29/1979, 12/1/1996; 21.17.56.11 NMAC - Rn & A, 21 NMAC 17.56.11, 2/28/2007]

21.17.56.12-13 [RESERVED]
[5/18/87, 3/30/89, R, 12/1/1996; 21.17.56.12-13 NMAC - Rn, 21 NMAC 17.56.12-13, 2/28/2007]

21.17.56.14 [RESERVED]
[1/21/1979, 11/29/1979, 3/27/1980, 5/18/1987, 2/19/1988, 3/30/1989, 12/1/1996; 21.17.56.14 NMAC - Rn & A, 21 NMAC 17.56.14, 2/28/2007; Repealed, 08/16/2010]

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.
[11/29/1979, 3/27/80, 5/18/1987; 21.17.56.15 NMAC - Rn & A, 21 NMAC 17.56.15, 2/28/2007; A, 08/16/2010]

21.17.56.16 DEALER RECORDS [RESERVED]
[4/10/74, 11/29/1979, 5/18/87; R, 12/1/1996; 21.17.56.16 NMAC - Rn, 21 NMAC 17.56.16, 2/28/2007]

[New Material]
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.

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]

Hearing Transcript - August 4, 2026

New Mexico Department of Agriculture

Rulemaking Public Hearing

Moderated by Les Owen, Deputy Director NMDA

Tuesday, August 4, 2026

9:05 a.m.

Gerald Thomas Hall Auditorium

940 College Drive, Room 194

Las Cruces, NM 88003

Reported by: Ryan Auten

JOB NO: 8263995

A P P E A R A N C E S

List of Attendees:

Les Owen, Deputy Director NMDA

Stephen Baca, Assistant Director - Agricultural Environmental Services

Ryan Hiles, Assistant Director - Agricultural Environmental Services

Tony Marquez, Director of Information Technology - New Mexico Department of Agriculture

Teri Cates, Owner TLC Pest Control, VP - New Mexico Pest Management Association

C. Benevidez, Attendee (by videoconference)

Courtenay, Attendee (by videoconference)

Kyleigh Serna, Attendee (by videoconference)

Micah Meyer, Attendee (by videoconference)

N. Busse, Attendee (by videoconference)

T. Thompson, Attendee (by videoconference)

Tyler Leslie, Rehm's Nursery (by videoconference)

Veronica, Attendee (by videoconference)

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 following rules: Japanese Beetle Exterior Quarantine, 21.27.27 [sic] of the New Mexico Administrative Code; Control of Wood Destroying Pests, 21.17.51 of the New Mexico Administrative Code; Continuing Education Units for Pesticide Applicators, 21.17.53 of the New Mexico Administrative Code; Restricted-Use Pesticides, 21.17.56 of the New Mexico Administrative Code; and M-44 Capsules in the Livestock Protection Collar, 21.17.57 of the New Mexico Administrative Code. Additionally, this hearing will address the proposed amendments to the Pesticides Rule 21.17.50 of the New Mexico Administrative Code.

My name is Les Owen. I am the deputy director for 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 rules and procedural steps were made available as you walked in.

The day and date is Tuesday, August 4, 2026, and the time is approximately 9:05 a.m. This

hearing is being held in person and virtually via internet link in New Mexico State University's Gerald Thomas Hall Auditorium, located at 940 College Drive, Las Cruces, New Mexico. This is the published date, time, and location for this hearing.

In accordance to state law, public notices for this hearing were published as follows: The New Mexico Register published June 23, 2026; Las Cruces Sun News, June 23, 2026; the Santa Fe, New Mexican, June 23, 2026, in English and Spanish; and the Albuquerque Journal, June 23, 2026. Notices were also published -- were also posted on New Mexico Department of Agriculture's website, New Mexico Sunshine Portal, and made available at New Mexico Department of Agriculture's main office in Las Cruces.

Additionally, notifications were sent to the New Mexico Economic Development Small Business Regulatory Advisory Commission for comment and to Legislative Counsel Service. Copies of the proposed replacement rules and amended rule were made available on New Mexico Department of Agriculture's website.

This hearing is being recorded and either a transcript of today's hearing or the recording will be available from New Mexico Department of Agriculture's website. Following a summary of

major points within each proposed six rules, the public will be provided with an opportunity to permit -- to present testimony. Testimony should be relevant to the proposed rules or amendments.

The first of six rules addressed in this hearing is the proposed repeal and replacement of the Japanese Beetle Exterior Quarantine Rule. Mr. Hiles will now provide a summary of proposed primary points included in the rule.

MR. HILES: Good morning. I am Ryan Hiles, an assistant division director with the New Mexico Department of Agriculture. The Japanese Beetle Exterior Quarantine Rule, 21.17.27 of the New Mexico Administrative Code, was promulgated under the authority of the Pest Control Act 76.6.1 of New Mexico Statutes to address risks associated with importing Japanese beetle into New Mexico through the importation of plant/nursery stock.

Extensive proposed amendments to the Japanese beetle exterior quarantine rule necessitated the repeal and replacement of the existing rule. Major points addressed include additional definitions for clarification purposes, requirement for nurseries exporting plants to New Mexico to comply with restrictions outlined in New Mexico Department of

Agriculture-issued compliance agreement, expansion of quarantined areas to include all U.S. states and specific Canadian provinces, requirements for smaller pots containing non-gramineous nursery stock to be treated prior to export to New Mexico, and provide states a pathway to include multiple nurseries to be covered under one compliance agreement.

MR. OWEN: Thank you, Mr. Hiles.

As of August 1, 2026, the New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Japanese Beetle Exterior Quarantine.

For those of you in the room, please raise your hand and wait until I call on you. For those participating through Zoom, please use the "Raise Hand" feature, and you will be -- you will then be unmuted. Begin your comment by stating your name and affiliation for the record. Your comment should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

Is there anyone else wishing to comment?

Seeing none, I will close the public

oral comment period for the proposed Japanese Beetle Exterior Quarantine Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website.

The second rule addressed during this hearing is the proposed repeal and replacement of the Control of Wood Destroying Pests rule. Mr. Baca will present a summary of major points contained in this proposed replacement rule.

MR. BACA: Good morning. I am Steve Baca, an assistant division director with New Mexico Department of Agriculture. The Control of Wood Destroying Pests Rule, 21.17.51 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.4.1-39 of

New Mexico Statutes to address regulatory requirements related to pesticide applicators involved in the control of wood-destroying pests.

Although amendments to the existing Control of Wood Destroying Pests Rule are few, format updates necessitated the repeal and replacement of the existing rule. Major points addressed in the proposed rule include updating, noting that not all termiticides are restricted-use products, alignment of terms with those used in the Pesticide Control Act, and clarification of license types that require supervision while applying pesticide -- insecticides.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Control of Wood Destroying Pests Rule.

For those of you in the room, please raise your hand and wait until I call on you. For those participating through Zoom, please use the raise your hand feature, and you will be unmuted. Begin your comment by stating your name and affiliation for the record. Your comment should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

Is there anyone else wishing to comment?

Seeing none, I will close the -- the public oral comment period for the proposed Wood Destroying Pests Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website.

The third rule addressed in this hearing is the proposed repeal and replacement of the Continuing Education Units for Pesticide Applicators Rule. Mr. Baca will present a summary of major points contained in this proposed replacement rule.

MR. BACA: I'm Steve Baca, an assistant

division director with the New Mexico Department of Agriculture. The Continuing Education Units for Pesticide Applicators Rule, 21.17.53 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.1.4 1-39 [sic] of the New Mexico Statutes to address Environmental Protection Agency-required updates relevant to continuing education requirements for pesticide applicators.

Extensive proposed changes and format updates necessitated a repeal and replacement process for this rule. Major points proposed in the replacement rule include definition updates, clarification of continuing education units approval process, addition of Environmental Protection Agency mandated re-certification requirements, and addition of new environmental protection agency pesticide applicator categories.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed continuing education units for pesticide applicators rule.

For those of you in the room, please

raise your hand and wait until I call on you. For those participating through Zoom, please use the raise your hand feature, and you will be unmuted. Begin your comment by stating your name and affiliation for the record. Your comments should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments. Yes.

MS. CATES: [Unintelligible response.]

MR. OWEN: Great. Thank you.

Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Continuing Education Units for Pesticide Applicators Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be

available from New Mexico Department of Agriculture's website.

Oh.

UNIDENTIFIED SPEAKER: Now if you use this microphone, he should be able to hear you.

MS. CATES: My name is Teri Cates. I am the owner-operator of TLC Pest Control, as well as the current vice president of New Mexico Pest Management Association and the State Policy Affairs Representative for the industry -- the pest control industry in the state of New Mexico. I'm here today to support the rule change, as it is much needed and long overdue.

MR. OWEN: Great. Thank you.

The fourth rule addressed in this hearing is the proposed repeal and replacement of the Restricted-Use Pesticides Rule. Mr. Baca will present a summary of major points contained in the proposed rule replacement.

MR. BACA: I'm Steve Baca, an assistant division director with New Mexico Department of Agriculture. The Restricted-Use Pesticides Rule, 21.17.56 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.4.1-39 of New Mexico Statutes to

address regulations relevant to the purchase, sale, use, and record retention of restricted-use pesticides.

Although proposed amendments to the existing Restricted-Use Pesticide Rule are few, format updates necessitated the repeal and replacement of the current rule. The major point addressed in the proposed rule is a revision of pesticide records requirements to ensure compliance with Environmental Protection Agency mandates.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed Restricted-Use Pesticides Rule.

For those of you in the room, please raise your hand and wait till I call on you. For those participating through Zoom, please use the "Raise Hand" feature, and you will be unmuted. Begin your comments by stating your name and affiliation for the record. Your comments should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

Okay. Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Restricted-Use Pesticides Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website.

The fifth rule addressed in this hearing is the proposed repeal and replacement of the M-44 and the Livestock Protection Collar Rule. Mr. Baca will present a summary of major points contained in the proposed replacement rule.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture. The M-44 and the Livestock Protection -- Protection Collar Rule, 21.17.57 of the

New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.4.1-39 of New Mexico Statutes to address regulations relevant to the purchase, sale, use, accident reporting, and record retention of M-44s and livestock protection collars.

Although proposed amendments to the existing M-44 and the Livestock Protection Collar Rule are few, format updates necessitated the repeal and replacement of the existing rule. Major points addressed in the proposed replacement rule include clarification of prospective license -- licensee qualifications, updating of records requirements, and harmonization of rule language with product labels.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed M-44 and Livestock Protection Collar Rule.

For those of you in the room, please raise your hand and wait until I call on you. For those participating through Zoom, please use the "Raise Hand" feature, and you will be unmuted. Begin your comment by stating your name and affiliation for

the record. Your comments should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed M-44 and -- and the Livestock Protection Collar Rule. Written comments will be accept until -- accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website.

The last rule addressed in this hearing are proposed amendments to the Pesticides Rule. Mr. Baca will present a summary of major points contained in the proposed rule amendments.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture. The Pesticides Rule, 21.17.50 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act 76.4.1-39 of New Mexico Statutes to address regulations relevant to the sale of pesticides, purchase, use, licensing, and record requirements by commercial pesticide applicators and individuals using restricted-use pesticides, and identifying pesticide applicator licensing categories.

The majority of proposed amendments to the Pesticides Rule are Environmental Protection Agency-mandated updates. These updates include changes in examination requirements, record requirement enhancements, new pesticide applicator categories, and minimum age establishment for applicators.

Additionally, proposed amendments include general language cleanup, increase in minimal insurance requirements, definition updates, and clarification to operators' training permits.

MR. OWEN: Thank you, Mr. Baca.

As of August 1, 2026, New Mexico Department of Agriculture has received no written

comments. We'll now open the floor for comments directed at the proposed Pesticides Rule.

For those of you in the room, please raise your hand and I will -- and wait until I call on you. For those participating through Zoom, please use the "Raise Hand" feature, and you will be unmuted. Begin your comment by stating your name and affiliation for the record. Your comments should be limited to the contents of the proposed rule.

At this time, I will begin accepting comments.

MS. CATES: My name is Teri Cates. I'm the owner-operator at TLC Pest Control, and I'm also the vice president of New Mexico Pest Management Association and the State Policy Affairs Representative for the industry. I am here on behalf of myself and my association to support all the rule changes, as they are much needed and long overdue.

MR. OWEN: Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Pesticides Rule. Written comments will be accepted until 5 p.m. August 6, 2026, and can be submitted through New Mexico Department of Agriculture's web page or dropped off at

the main Las Cruces office.

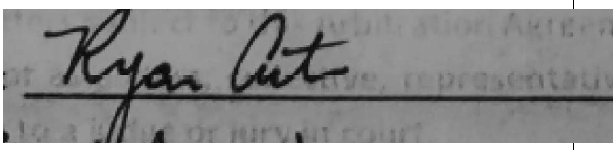
All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents. Submitted comments in either a transcript of today's hearing and/or the recording will be available from the New Mexico Department of Agriculture's website.

The time is 9:21 a.m. I will now close this public hearing that addressed amendments to or the repeal and replacement of six New Mexico Department of Agriculture pesticide or plant pest-related rules. Thank you.

(Whereupon, at 9:21 a.m., the proceeding was concluded.)

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.



RYAN AUTEN

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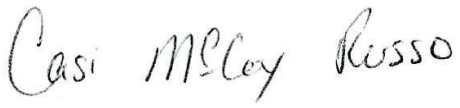

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Hearing Transcript - August 6, 2026

New Mexico Department of Agriculture

Pesticides Rulemaking Hearing

Moderated by Les Owen, Deputy Director

Thursday, August 6, 2026

9:00 a.m.

Central New Mexico Community College Workforce Training Center

5600 Eagle Rock Avenue Northeast

Albuquerque, NM 87113

Reported by: James Cogswell

JOB NO: 8264010

A P P E A R A N C E S

List of Attendees:

Les Owen, Deputy Director, New Mexico Department of Agriculture

Ryan Hiles, Assistant Division Director, New Mexico Department of Agriculture

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

Tim Darden, New Mexico Department of Agriculture

Nathan Abrahamson, New Mexico Department of Agriculture

Maria Rocha-Hall, New Mexico Department of Agriculture

Candie Sweetser, New Mexico Department of Agriculture

Alan Feuer, Attendee

Kyleigh Serna, Attendee

Dixie Mussaw, Attendee

Chris Benavidez, Attendee

John Crowley, Attendee

Bradley Lewis, New Mexico Department of Agriculture

P R O C E E D I N G S

MR. OWEN: We're ready? Okay. Good morning. At this time, we will start the hearing that addresses the proposed repeal and replacement of the following rules: Japanese Beetle Exterior Quarantine, 21.27.27 of the New Mexico Administrative Code. Control of Wood Destroying Pest, 21.17.51 of the New Mexico Administrative Code.

Continuing Education Units for Pesticide Applicators, 21.17.53 of the New Mexico Administrative Code. Restricted-Use Pesticides, 21.17.56 of the New Mexico Administrative Code. And M-44 Capsules and the Livestock Protection Collar, 21.17.57 of the New Mexico Administrative Code.

Additionally, this hearing will address the proposed amendments to the Pesticides Rule 21.17.50 of the New Mexico Administrative Code. My name is Les Owen. I am the deputy director for 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 rules and procedural steps were made available as you walked in. The day and date is Thursday, August 6th, and the

time is approximately 9:05 a.m.

This hearing is being held in person at the CNM Workforce Training Center located at 5600 Eagle Rock Avenue, Albuquerque, New Mexico. This is the published date, time, and location for this hearing.

In accordance to state law, public notices for this hearing were published as follows: The New Mexico Register, published June 23, 2026, Las Cruces Sun-News, June 23, 2026, The Santa Fe New Mexican, June 23, 2026, in English and Spanish, and the Albuquerque Journal, June 23, 2026.

Notices were also posted at the New Mexico Department of Agriculture's website and the New Mexico Sunshine Portal and made available at New Mexico Department of Agriculture's main office in Las Cruces.

Additionally, notifications were sent to the New Mexico Economic Development's Small Business Regulatory Advisory Commission for comment and to Legislative Counsel Service. Copies of the proposed replacement rules and amended rule were made available on New Mexico Department of Agriculture's website.

Written comments will be accepted until

5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office. Following a summary of major points within each proposed six rules, the public will be provided with an opportunity to present testimony.

Testimony should be relevant to the proposed rules or amendments. The first of six rules addressed in this hearing is the proposed repeal and replacement of the Japanese Beetle Exterior Quarantine Rule. Mr. Hiles will now provide a summary of proposed primary points included in the rule.

MR. HILES: Good morning. I am Ryan Hiles, an assistant division director with the New Mexico Department of Agriculture.

The Japanese Beetle Exterior Quarantine Rule 21.17.27 of the New Mexico Administrative Code was promulgated under the authority of the Pest Control Act 76.6.1 of New Mexico statutes to address risks associated with importing Japanese beetle into New Mexico through the importation of plant nursery stock.

Extensive proposed amendments to the Japanese Beetle Exterior Quarantine Rule necessitated the repeal and replacement of the existing rule.

Major points addressed include: additional definitions for clarification purposes.

Requirements for nurseries exporting plants to New Mexico to comply with the restrictions outlined in New Mexico Department of Agriculture issued compliance agreement. Expansion of quarantined areas to include all U.S. States and specific Canadian provinces.

Requirements for smaller pots containing non-gramineous nursery stock to be treated prior to export to New Mexico. And provide states a pathway to include multiple nurseries to be covered under one compliance agreement.

MR. OWEN: Thank you, Mr. Hiles.

As of August 6, 2026, New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Japanese Beetle Exterior Quarantine. Please raise your hand and wait until I call on you. Begin your comment by stating your name and affiliation for the record.

Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments. We have a microphone up here for anybody that would like to comment.

Yes, sir. If you'll please just come up to this microphone so that we can capture it.

MR. CROWLEY: Thank you for listening. Am I on? Okay. Thank you for listening. I'm John Crowley, and I'm a sales rep for Monrovia Growers. You -- I know this is a little heavy-handed as any agriculture department or any government entity is. You can't, like, say, "Oh, you get a by."

But as I've expressed in emails to the NMDA, it's hard to prove that ghosts don't exist. Monrovia Growers and many other growers have areas that are clean. And the way the rules or regulations are proposed, it's almost like go out there and trap.

And we don't want -- we really don't want to trap because it -- the traps you have us using in Oregon -- they do have us using those in Oregon already. That's a requirement. And we're compliant with that. That's easily done. That Oregon nursery is in an agricultural area. It isn't in a residential area. So that's easily done.

The -- none of us here, nobody in this room wants to bring Japanese beetles in. But the gramineous plants that you're requiring, those are basically woody landscape ornamentals. I can think of, like, pampus grass, maiden grass. And I can't

understand.

Maybe that's the USDA recommendation instead of -- and NMDA is just using that or -- or piggybacking with that. I don't know. But gramineous plants, I don't understand how that can be. I understand turf and then we're getting into gramineous, bluegrass, Kentucky Bluegrass. I get that.

But when it comes to woody ornamentals, which are a lot of ornamental grasses, you're really cutting down on a plant that people use here as a standalone, looks great in the gravel, not a heavy water user, drought tolerant, looks great. So I think that we -- I'd like to see us revisit that.

Also, the size container, you had mentioned be treated in there, some plants being treated. I don't know what that all entails, whether you're going to require us to start treating them with, like, Talstar or something prior to shipping. That's a little scary because you don't want to hit it with a chemical.

Then put it on the back of the truck, seal the door, and let it ride for six days with no sunshine. Then open it up and see what you got. You can understand that. So please work with us on that

and let us know. We're spending a lot of money up in Oregon to treat for them. We don't have any Japanese beetles up there.

We're -- I see the traps when I'm up there. So I think that if it's a clean nursery, a little less heavy-handed on the container size. You know, let's -- let's look at those. And I -- I think that might be a piggyback again with the USDA. Am I correct; Ryan?

MR. HILES: So for clean nurseries, that's going to -- the options in the proposed rule allow for clean nurseries to be excluded from the treatment requirements if need be.

MR. CROWLEY: Ah. Okay.

MR. HILES: So that's going to be --

MR. CROWLEY: I see. That -- yeah.

MR. HILES: Yes.

MR. CROWLEY: That was -- that was unclear. Thank you for the clarification there.

MR. HILES: No problem.

MR. CROWLEY: But it does seem a -- it's cutting back on a lot of the income of these garden centers that are running clean operations, just like Monrovia, you know, Osuna, Plant World. These places that are, you know, not Bob's cheap shop and

not -- the mass merchants are the ones that scare me the most.

So I'd really like some kind of -- you know, I saw it in California there aren't any bugs, but that's the only place I can ship my ornamental grasses from now. You've nixed me out of Oregon, you nixed me out of Georgia. But the only place I can ship them is California.

Now with this, you're going to nix me out of -- out of California next September 27th, I think -- or September of '27. It gets to the point, it's like, good golly. If you knew how much you cut my income by knocking me out of 15 and 10 gallon crape myrtles out of Georgia, you would be -- it -- it wouldn't -- anyway, it wasn't fun. It's not pleasant.

So I really -- we don't want Japanese beetle, but we feel it's a little heavy-handed from the New Mexico Department of Agriculture. Thank you.

MR. OWEN: Thank you.

Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Japanese Beetle Exterior Quarantine Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be

submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The second rule to be addressed during this hearing is the proposed repeal and replacement of the Control of Wood Destroying Pests Rule.

Mr. Baca will present a summary of major points contained in this proposed replacement rule.

MR. BACA: Good morning. I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture.

The Control of Wood Destroying Pests, Rule 21.17.51 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act, 76.4.1-39 of New Mexico statutes to

address regulatory requirements related to pesticide applicators involved in the control of wood-destroying pests.

Although proposed amendments to the existing Control of Wood Destroying Pest Rules are few, format updates necessitated the repeal and replacement of the existing rule. Major points addressed in the proposed rule include: update noting that not all termiticides are restricted use products.

Alignment of terms with those used in the Pesticide Control Act. And clarification of license types that require supervision while applying insecticides.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Control of Wood Destroying Pests Rule. Please raise your hand and wait until I call on you. Begin your comment by stating your name and affiliation for the record.

Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments. Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed Wood Destroying Pests Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The third rule addressed in this hearing is the proposed repeal and replacement of the Continuing Education Units for Pesticide Applicators Rule.

Mr. Baca will present a summary of major points contained in the proposed replacement rule.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture.

The Continuing Education Units for

Pesticide Applicators Rule 21.17.53 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act, 76.4.1-39 of New Mexico statutes to address Environmental Protection Agency required updates relevant to Continuing Education Requirements for Pesticide Applicators.

Extensive proposed changes and format updates necessitated a repeal and replacement process for this rule. Major points proposed in the replacement rule include: definition updates, clarification of continuing education units approval process, addition of Environmental Protection Agency mandated recertification requirements.

And addition of new environmental protection agency pesticide applicator categories.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received no written comments. We'll now open the floor for comments directed at the proposed Continuing Education Units for Pesticide Applicators Rule. Please raise your hand and wait until I call on you.

Begin your comments by stating your name and affiliation for the record. Your comments

should be limited to the contents of the proposed rule. At this time, I will begin accepting comments.

Yes, sir.

MR. FEUER: Good morning. My name is Alan Feuer. I am a certified applicator in the State of New Mexico, license number 61155.

Did you get all that?

THE REPORTER: Yeah.

MR. FEUER: It's good enough?

I've held licensure in the state of New Mexico since 1989. I'm licensed in the Categories 7A, B, C, D, 3A, and 3B, six categories. I come up here today to speak in complete and total favor of the upgrade to the testing and certifications and recertification rules. This is far overdue.

It has been unfair for decades that only one category in our entire licensure circumstances required any sort of continuing education for operator servicemen. And this rectifies quite a bit of that. So thank you for the changes that have been made.

MR. OWEN: Thank you.

Is there anyone else wishing to comment?

Seeing none, I will close the public

oral comment period for the proposed Continuing Education Units for Pesticide Applicators Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The fourth rule addressed in this hearing is the proposed repeal and replacement of the Restricted-Use Pesticides Rule.

Mr. Baca will present a summary of major points contained in the proposed replacement rule.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture.

The Restricted-Use Pesticides Rule 21.17.56 of the New Mexico Administrative Code was

promulgated under the authority of the Pesticide Control Act 76.4.1-39 of New Mexico statutes to address regulations relevant to the purchase, sale, use, and record retention of Restricted Use Pesticides.

Although proposed amendments to the existing Restricted-Use Pesticides Rule are few, format updates necessitated the repeal and replacement of the current rule. The major point addressed in the proposed rule is a revision of pesticide records requirements to ensure compliance with Environmental Protection Agency mandates.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed Restricted-Use Pesticides Rule. Please raise your hand and wait until I call on you.

Begin your comment by stating your name and affiliation for the record. Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments. Is there anyone wishing to comment?

Seeing none, I will close the public

oral comment period for the proposed Restricted-Use Pesticide Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The fifth rule addressed in this hearing is the proposed repeal and replacement of the M-44 and Livestock Protection Collar Rule.

Mr. Baca will present a summary of major points contained in the proposed replacement rule.

MR. BACA: I am Steve Baca, an assistant division director with the New Mexico Department of Agriculture.

The M-44 and the Livestock Protection Collar Rule 21.17.57 of the New Mexico Administrative Code was promulgated under the authority of the

Pesticide Control Act 76.4.1-39 of New Mexico statutes to address regulations relevant to the purchase, sale, use, accident reporting, and record retention of M-44s and Livestock Protection Collars.

Although proposed amendments to the existing M-44 and the Livestock Protection Collar Rule are few, the format updates necessitated the repeal and replacement of the existing rule.

Major points proposed in the replacement rule include: clarification of prospective licensee qualifications, updating of records requirements, and harmonization of rule language with product labels.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received no written comments. We will now open the floor for comments directed at the proposed M-44 and Livestock Protection Collar Rule. Please raise your hand and wait until I call on you. Begin your comment by stating your name and affiliation for the record.

Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments. Is there anyone wishing to comment?

Seeing none, I will close the public oral comment period for the proposed M-44 and Livestock Protection Collar Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording will be available from New Mexico Department of Agriculture's website. The last rule addressed in this hearing are proposed amendments to the Pesticides Rule. Mr. Baca will present a summary of major points contained in the proposed rule amendments.

MR. BACA: I am Steve Baca, an assistant division director with New Mexico Department of Agriculture.

The Pesticides Rule 21.17.50 of the New Mexico Administrative Code was promulgated under the authority of the Pesticide Control Act, 76.4.1-39 of

New Mexico statutes to address regulations relevant to the sale of pesticides, purchase, use, licensing, and record requirements by commercial pesticide applicators and individuals using restricted use pesticides.

And identifying pesticide applicator licensing categories. The majority of proposed amendments to the Pesticide Rule are Environmental Protection Agency mandated updates.

These updates include: changes in examination requirements, record requirement enhancements, new pesticide applicator categories, and minimum age establishment for applicators.

Additionally, proposed amendments include: general language cleanup, increase in minimal insurance requirements, definition updates, and clarification to operator's training permits.

MR. OWEN: Thank you, Mr. Baca.

As of August 6, 2026, New Mexico Department of Agriculture has received one written comment. We will now open the floor for comments directed at the proposed Pesticide Rule. Please raise your hand and wait until I call on you. Begin your comment by stating your name and affiliation for the record.

Your comments should be limited to the contents of the proposed rule. At this time, I will begin accepting comments.

Yes, sir.

MR. FEUER: Thank you. My name is Alan Feuer. I'm a commercial applicator, license number 61155, in six categories in the state of New Mexico. I rise to explain -- or to state my support for these changes.

MR. OWEN: Thank you.

Is there anyone else wishing to comment?

Seeing none, I will close the public oral comment period for the proposed amendments to the Pesticides Rule. Written comments will be accepted until 5 p.m., August 6, 2026, and can be submitted through New Mexico Department of Agriculture's webpage or dropped off at the main Las Cruces office.

All public comments will be presented to the Secretary Director of New Mexico Department of Agriculture, Mr. Jeff Witte, and will be submitted for consideration to the New Mexico State University Board of Regents.

Submitted comments and either a transcript of today's hearing and/or the recording

will be available from New Mexico Department of Agriculture's website.

The time is 9:23 a.m. I will now close this public hearing that addressed amendments to or the repeal and replacement of six New Mexico Department of Agriculture pesticide or plant pest related rules. Thank you.

(Whereupon, the meeting concluded at 9:23 a.m.)

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.



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

CERTIFICATE OF TRANSCRIBER

I, MARY SACKETT, 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.



MARY SACKETT

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New Mexico Rules of Civil Procedure for the

District Courts

Article 5, Rule 1-030

(e) Review by Witness; Changes; Signing. If requested by the deponent or a party before completion of the deposition, the deponent shall have thirty (30) days after being notified by the officer that the transcript or recording is available in which to review the transcript or recording and, if there are changes in form or substance, to sign a statement reciting such changes and the reasons given by the deponent for making them. The officer shall indicate in the certificate prescribed by Subparagraph (1) of Paragraph F of this rule whether any review was requested and, if so, shall append any changes made by the deponent during the period allowed.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE STATE RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

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Exhibits

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the New Mexico Department of Agriculture (NMDA) proposes to repeal and replace the following: 21.17.27 NMAC, JAPANESE BEETLE EXTERIOR QUARANTINE; 21.17.51 NMAC, CONTROL OF WOOD DESTROYING PESTS; 21.17.53 NMAC, CONTINUING EDUCATION UNITS FOR PESTICIDE APPLICATORS; 21.17.56, NMAC RESTRICTED-USE PESTICIDES; and 21.17.57 NMAC, M-44 AND THE LIVESTOCK PROTECTION COLLAR. NMDA proposes amending 21.17.50 NMAC, PESTICIDES.

PURPOSE AND SUMMARY OF PRIMARY PROPOSED RULE CHANGES:

21.17.27 NMAC, JAPANESE BEETLE EXTERIOR QUARANTINE
Extensive amendments necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: additional terms added to the definition section to clarify regulatory requirements; scope of Japanese beetle (JB) quarantined areas expanded from 36 states to all U.S. states and specific Canadian provinces; scope of regulated articles expanded to include additional nursery stock items; compliance agreements (issued by NMDA) required for shipment of regulated articles into New Mexico; departments of agriculture in originating states provided options to petition NMDA for areawide or single-nursery compliance agreements; treatment requirements clarified for shipment of regulated articles into New Mexico; exceptions from compliance agreement requirements provided for small (under 10-inch container diameter) non-gramineous nursery stock; and requirement for small (under 10-inch container diameter) non-gramineous nursery stock to be treated and accompanied by a phytosanitary certificate for shipment into New Mexico.

21.17.51 NMAC, CONTROL OF WOOD DESTROYING PESTS
Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: removal of restricted use statement to reflect that not all termiticides are restricted use products; alignment of terms with those in the Pesticide Control Act, 76.4.18 et. seq. NMSA 1978; and clarification of license types that require direct supervision of employees applying pesticides.

21.17.53 NMAC, CONTINUING EDUCATION UNITS FOR PESTICIDE APPLICATORS
Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: updates to definitions; clarification of Continuing Education Unit approval process; addition of Environmental Protection Agency mandated recertification requirements, including the number of Continuing Education Units required for all applicator categories.

21.17.56 NMAC, RESTRICTED-USE PESTICIDES
Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: updates to language and revision of additional pesticide dealer record requirements to comply with Environmental Protection Agency.

21.17.57 NMAC, M-44 AND THE LIVESTOCK PROTECTION COLLAR
Format update requirements necessitated repeal and replacement of existing rule. Principal proposed changes from existing rule include: clarification of prospective licensee qualifications; and records and usage requirements updated to address product label inconsistencies.

21.17.50 NMAC, PESTICIDES
Amendments are primarily directed at updating pesticide applicator requirements to comply with federal Environmental Protection Agency laws including: pesticide applicator examination requirements; enhanced dealer record requirements; minimum age requirements for pesticide applicator licensees (18 years old); and addition of new pesticide applicator categories. General cleanup of rule language included definition updates and increase in minimum insurance coverage requirements.

STATUTORY AUTHORITY (Rule 21.17.27 NMAC)**:** Granted to the Board of Regents of New Mexico State University under the Pest Control Act, Chapter 76, Article 6, Sections 1 through 9 NMSA 1978 Compilations. **(**Rules 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC, and 21.17.50 NMAC)**:** 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 Compilations.

Copies of the Notice of Proposed Rulemaking and the proposed rules (including any technical information) are available by electronic download from the New Mexico Department of Agriculture website (https://nmdeptag.nmsu.edu) and are also available at the department's office, located at 1050 Stewart Street, Las Cruces, NM.

Tuesday, August 4, 2026, at 9 a.m., NMDA will host a public hearing that may be attended in person, by video conference, or by telephone. The hearing will take place at the Gerald Thomas Hall Auditorium (Room 194) on the campus of New Mexico State University, located at 940 College Drive, Las Cruces, NM. The hearing will include repeal and replacement, and or amendments to rules 21.17.27 NMAC, 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC and 21.17.50 NMAC.

Join the hearing via **video conference** Tuesday, August 4, 2026, at 9:00 a.m.:
Meeting URL: https://nmsu.zoom.us/j/87014463854
Meeting ID: 870 1446 3854
Or
Join the hearing via **phone** Tuesday, August 4, 2026, at 9:00 a.m.:
Phone: 1 669 900 6833 or 1 719 359 4580
Meeting ID: 870 1446 3854

Thursday, August 6, 2026 at 9 a.m., NMDA will host a public, in-person hearing at the CNM Workforce Training Center, located at 5600 Eagle Rock Ave NE, Albuquerque, NM. The hearing will include repeal and replacement, and or amendments to rules 21.17.27 NMAC, 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC, and 21.17.50 NMAC.

Oral and written comments will be accepted at the hearings from members of the public and interested parties. Written comments will be accepted until August 6, 2026, at 5:00 p.m. Comments may be submitted via email to 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

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/Secretary of Agriculture will consider all oral comments and will review all timely submitted written comments and responses.

AVISO DE PROPUESTA DE REGLAMENTACIÓN

POR LA PRESENTE SE NOTIFICA que el Departamento de Agricultura de Nuevo México (NMDA) propone derogar y reemplazar las siguientes normas: 21.17.27 NMAC, CUARENTENA EXTERIOR CONTRA EL ESCARABAJO JAPONÉS; 21.17.51 NMAC, CONTROL DE PLAGAS QUE DESTRUYEN LA MADERA; 21.17.53 NMAC, UNIDADES DE EDUCACIÓN CONTINUA PARA APLICADORES DE PLAGUICIDAS; 21.17.56 NMAC, PLAGUICIDAS DE USO RESTRINGIDO; y 21.17.57 NMAC, M-44 Y EL COLLAR DE PROTECCIÓN PARA GANADO. El NMDA propone modificar la norma 21.17.50 NMAC, PLAGUICIDAS.

PROPÓSITO Y RESUMEN DE LOS PRINCIPALES CAMBIOS PROPUESTOS A LA REGLAMENTACIÓN:

21.17.27 NMAC, CUARENTENA EXTERIOR CONTRA EL ESCARABAJO JAPONÉS
La necesidad de realizar modificaciones extensas requirió la derogación y el reemplazo de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: incorporación de términos adicionales en la sección de definiciones para aclarar los requisitos reglamentarios; ampliación del alcance de las áreas bajo cuarentena por el escarabajo japonés (JB, por sus siglas en inglés), pasando de 36 estados a todos los estados de EE. UU. y provincias canadienses específicas; ampliación del alcance de los artículos regulados para incluir productos adicionales de vivero; exigencia de acuerdos de cumplimiento (emitidos por el NMDA) para el envío de artículos regulados a Nuevo México; otorgamiento de opciones a los departamentos de agricultura de los estados de origen para solicitar al NMDA acuerdos de cumplimiento a nivel de área o para viveros individuales; aclaración de los requisitos de tratamiento para el envío de artículos regulados a Nuevo México; establecimiento de excepciones a los requisitos de acuerdo de cumplimiento para plantas de vivero pequeñas (en contenedores de menos de 10 pulgadas de diámetro) que no sean gramíneas; y requisito de que las plantas de vivero pequeñas (en contenedores de menos de 10 pulgadas de diámetro) que no sean gramíneas sean tratadas y vayan acompañadas de un certificado fitosanitario para su envío a Nuevo México.

21.17.51 NMAC, CONTROL DE PLAGAS QUE DESTRUYEN LA MADERA
Los requisitos de actualización de formato hicieron necesaria la derogación y el reemplazo de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: eliminación de la declaración de uso restringido para reflejar que no todos los termiticidas son productos de uso restringido; alineación de los términos con los de la Ley de Control de Pesticidas (*Pesticide Control Act*), secciones 76.4.18 y siguientes de la NMSA 1978; y aclaración de los tipos de licencia que requieren supervisión directa de los empleados que aplican pesticidas.

21.17.53 NMAC, UNIDADES DE EDUCACIÓN CONTINUA PARA APLICADORES DE PESTICIDAS
Los requisitos de actualización de formato hicieron necesaria la derogación y sustitución de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: actualizaciones de definiciones; aclaración del proceso de aprobación de las Unidades de Educación Continua; e incorporación de los requisitos de recertificación exigidos por la Agencia de Protección Ambiental (EPA), incluido el número de Unidades de Educación Continúa requerido para todas las categorías de aplicadores.

21.17.56 NMAC, PESTICIDAS DE USO RESTRINGIDO
Los requisitos de actualización de formato hicieron necesaria la derogación y sustitución de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: actualizaciones en la redacción y revisión de los requisitos adicionales de registro para distribuidores de pesticidas, a fin de cumplir con las disposiciones de la Agencia de Protección Ambiental (EPA).

21.17.57 NMAC, M-44 Y EL COLLAR DE PROTECCIÓN PARA GANADO
Los requisitos de actualización de formato hicieron necesaria la derogación y sustitución de la norma vigente. Los principales cambios propuestos respecto a la norma actual incluyen: aclaración de los requisitos para los futuros titulares de licencias; y actualización de los requisitos de registro y uso para abordar las inconsistencias en las etiquetas de los productos.

21.17.50 NMAC, PESTICIDAS
Las modificaciones se centran principalmente en actualizar los requisitos para aplicadores de pesticidas a fin de cumplir con las leyes federales de la Agencia de Protección Ambiental (EPA), incluyendo: requisitos de examen para

aplicadores de pesticidas; requisitos reforzados de registro para distribuidores; requisitos de edad mínima para los titulares de licencias de aplicador de pesticidas (18 años); e incorporación de nuevas categorías de aplicadores de pesticidas. Se realizó una revisión general de la redacción de la norma que incluyó actualizaciones de definiciones y un aumento en los requisitos mínimos de cobertura de seguro.

AUTORIDAD LEGAL (Norma 21.17.27 NMAC): Otorgada a la Junta de Regentes de la Universidad Estatal de Nuevo México (*New Mexico State University*) en virtud de la Ley de Control de Plagas (*Pest Control Act*), Capítulo 76, Artículo 6, Secciones 1 a 9 de la Compilación NMSA 1978. AUTORIDAD LEGAL (Reglas 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC y 21.17.50 NMAC): Otorgada a la Junta de Regentes de la Universidad Estatal de Nuevo México (New Mexico State University) en virtud de la Ley de Control de Pesticidas de Nuevo México (New Mexico Pesticide Control Act), Capítulo 76, Artículo 4, Secciones 1 a 39, Compilaciones NMSA 1978.

Se pueden obtener copias del Aviso de Propuesta de Reglamentación y de las reglas propuestas (incluida cualquier información técnica) mediante descarga electrónica desde el sitio web del Departamento de Agricultura de Nuevo México (https://nmdeptag.nmsu.edu); también están disponibles en la oficina del departamento, ubicada en 1050 Stewart Street, Las Cruces, NM.

El martes 4 de agosto de 2026, a las 9:00 a. m., el NMDA celebrará una audiencia pública a la que se podrá asistir en persona, por videoconferencia o por teléfono. La audiencia tendrá lugar en el auditorio Gerald Thomas Hall (Sala 194) del campus de la New Mexico State University, ubicado en 940 College Drive, Las Cruces, NM. La audiencia abordará la derogación y sustitución, y/o las modificaciones de las normas 21.17.27 NMAC, 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC y 21.17.50 NMAC.

Participe en la audiencia por **videoconferencia** el martes 4 de agosto de 2026, a las 9:00 a. m.:
URL de la reunión: https://nmsu.zoom.us/j/87014463854
ID de la reunión: 870 1446 3854
O
Participe en la audiencia por **teléfono** el martes 4 de agosto de 2026, a las 9:00 a. m.:
Teléfono: 1 669 900 6833 o 1 719 359 4580
ID de la reunión: 870 1446 3854

El jueves 6 de agosto de 2026, a las 9:00 a. m., el NMDA celebrará una audiencia pública presencial en el CNM Workforce Training Center, ubicado en 5600 Eagle Rock Ave NE, Albuquerque, NM. La audiencia abordará la derogación y sustitución, y/o las modificaciones de las normas 21.17.27 NMAC, 21.17.51 NMAC, 21.17.53 NMAC, 21.17.56 NMAC, 21.17.57 NMAC y 21.17.50 NMAC.

En las audiencias se aceptarán comentarios orales y escritos por parte del público y de las partes interesadas. Se aceptarán comentarios por escrito hasta el 6 de agosto de 2026 a las 5:00 p.m. Los comentarios pueden enviarse por correo electrónico a comments@nmda.nmsu.edu o presentarse enviando copias originales a:

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

NECESIDADES ESPECIALES: Si usted es una persona con discapacidad que necesita un lector, un amplificador, un intérprete de lengua de señas cualificado o cualquier otra forma 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 tan pronto como sea posible.

El Director/Secretario de Agricultura tomará en cuenta todos los comentarios orales y revisará todos los comentarios y respuestas por escrito presentados dentro del plazo establecido.

ARTICLE 4
Pesticide Control

76-4-1. Title.

This act [76-4-1 to 76-4-39 (except 76-4-20.1) NMSA 1978] may be cited as the "Pesticide Control Act."

History: 1953 Comp., § 45-25-1, enacted by Laws 1973, ch. 366, § 1.

ANNOTATIONS

Compiler's notes. — Laws 1973, ch. 366, which originally enacted the Pesticide Control Act, is presently compiled as 76-4-1 to 76-4-20, 76-4-21 to 76-4-28, 76-4-30 to 76-4-39 NMSA 1978. Laws 1992, ch. 25, § 1 enacted 76-4-9.1 NMSA 1978 as part of the Pesticide Control Act.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 55.

Exterminator's tort liability for personal injury or death directly resulting from operations, 29 A.L.R.4th 987.

Anticompetitive covenants: aerial spray dust business, 60 A.L.R.4th 965.

Federal pre-emption of state common-law products liability claims pertaining to pesticides, 101 A.L.R. Fed. 887.

76-4-2. Enforcing agency.

The Pesticide Control Act shall be administered and enforced by the state department of agriculture, under the direction of the board of regents, New Mexico state university.

History: 1953 Comp., § 45-25-2, enacted by Laws 1973, ch. 366, § 2.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 20, 21.

3 C.J.S. Agriculture §§ 8 to 24.

76-4-3. Definitions.

As used in the Pesticide Control Act:

A. "equipment" means any type of ground, water or aerial equipment, device or contrivance using motorized, mechanical or pressurized power to apply any pesticide on land and anything that may be growing,

habitating or stored on or in such land, but does not include any pressurized hand-sized household device used by a homeowner to apply a pesticide or any equipment, device or contrivance of which the person who is applying the pesticide on the person's own land is the source of power or energy in making the pesticide application;

B. "board" means the board of regents of New Mexico state university;

C. "department" means the New Mexico department of agriculture;

D. "device" means any instrument or contrivance other than a firearm that is intended for trapping, destroying, repelling or mitigating any pest or any other form of plant or animal life, other than humans and other than bacteria, viruses or other microorganisms on or in any living thing other than plants, but does not include equipment used for the application of pesticides when sold separately therefrom, or traps used to control predators or rodents or sterilization using dry heat or steam;

E. "distribute" means to offer for sale, hold for sale, sell, barter or supply in this state;

F. "environment" includes water, air and land and all plants and every living thing in water, in air and on land and the existing interrelationships;

G. "insect" means any of the numerous small invertebrate animals belonging principally to the class insecta, including beetles, bugs, bees, flies, and to other allied classes of arthropods, including spiders, mites, ticks, millipedes, centipedes and sowbugs;

H. "ingredient statement" means a statement that contains the name and percentage of each ingredient of any pesticide that is intended for one of the purposes under Paragraphs (1) through (4) of Subsection N of this section, and the total percentage of all ingredients in the pesticide not for one of those purposes. If the pesticide contains arsenic in any form, the ingredient statement shall contain a statement of the percentages of total and water-soluble arsenic, calculated as elemental arsenic;

I. "label" means the written, printed or graphic matter on or attached to the pesticide or device or any of its containers or wrappers;

J. "labeling" means all labels and all other written, printed or graphic matter accompanying the pesticide or device at any time; or to which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the department, the United States environmental protection agency, United States departments of agriculture, the interior and health and human services, state agricultural universities and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides;

K. "land" means all land and water areas, including air space, and all living things and all structures, buildings, contrivances and machinery appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation;

L. "person" has the extended meaning ascribed to it in Subsection E of Section 12-2A-3 NMSA 1978;

M. "pest" means any living organism injurious to other living organisms, except humans, viruses, bacteria or other microorganisms in or on other living organisms other than plants, that the board by rule declares to be a pest;

N. "pesticide" means any substance or mixture of substances intended for:

(1) preventing, destroying, repelling or mitigating any pest;

(2) causing the leaves or foliage to drop from a plant, with or without causing abscission;

(3) artificially accelerating the drying of plant tissue; or

(4) accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior, of ornamental or crop plants or the produce thereof, through physiological action, but not including substances that are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants or soil amendments;

O. "pesticide dealer" means any person who distributes highly toxic pesticides, restricted use pesticides or both, which pesticides are restricted by rule to distribution only by licensed pesticide dealers;

P. "pest management consultant" means any individual who offers or supplies technical advice or makes recommendations to the user of highly toxic pesticides, restricted use pesticides or both, which pesticides are restricted by rule to distribution only by licensed pesticide dealers;

Q. "registrant" means a person who has registered any pesticide pursuant to the provisions of the Pesticide Control Act;

R. "restricted use pesticide" means any pesticide or device designated by the board as requiring specific restrictions to prevent unreasonable adverse effects on the environment, including humans, beneficial insect predators and parasites, pollinating insects, animals, crops, wildlife and lands but excluding the pests the pesticide or device is intended to prevent, destroy, control or mitigate;

S. "unreasonable adverse effects on the environment" means an unreasonable risk to humans or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide;

T. "noncommercial applicator" means a person who uses or demonstrates restricted use pesticides and does not qualify as a private applicator and is not required to have a commercial applicator's license;

U. "private applicator" means a certified applicator who uses or supervises the use of any pesticide that is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by the certified applicator or the certified applicator's employer or on the property of another person if applied without compensation other than trading of personal services between producers of agricultural commodities;

V. "public applicator" means a certified applicator who as an employee of a federal, state, county or municipal agency or municipal corporation uses any pesticide that is classified for restricted use or any general use pesticide, when applied to sites or under conditions identified by rule promulgated by the board; and

W. "commercial applicator" means a certified applicator, whether or not the certified applicator is a private applicator with respect to some uses, who for compensation uses or supervises the use of any pesticide for any purpose on any property other than as provided by Sections 76-4-19 and 76-4-20.1 NMSA 1978.

History: 1953 Comp., § 45-25-3, enacted by Laws 1973, ch. 366, § 3; 1979, ch. 394, § 1; 2009, ch. 101, § 1; 2009, ch. 109, § 1.

ANNOTATIONS

The 2009 amendment, effective June 19, 2009, in Subsection L, changed the reference from Section 12-2-2 NMSA 1978 to Section 12-2A-3 NMSA 1978; in Subsection V, after "restricted use", deleted "only by

certified applicators or persons under their direct supervision" and added the remainder of the sentence; and in Subsection W, added the reference to Section 76-4-19 NMSA 1978.

Laws 2009, ch. 101, § 1 and Laws 2009, ch. 109, § 1 enacted identical amendments to this section. The section was set out as amended by Laws 2009, ch. 109, § 1. *See* 12-1-8 NMSA 1978.

76-4-4. Misbranded.

A pesticide or device is misbranded if:

A. its labeling bears any statement, design or graphic representation relative thereto or to its ingredients which is false or misleading;

B. it is contained in a package or other container or wrapping which does not conform to the standards established by the board;

C. it is an imitation of or is distributed under the name of another pesticide or device;

D. any word, statement or other information, required by the Pesticide Control Act or regulations adopted thereunder to appear on the label or labeling, is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or graphic matter in the labeling), and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

E. the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product was intended and if complied with, together with any requirements imposed by the Pesticide Control Act and regulations adopted by the board, are adequate to prevent injury to plants and animals including man, and protect against any unreasonable adverse effects on the environment;

F. the labeling bears any reference to registration under the provisions of the Pesticide Control Act unless such reference is required by regulations adopted pursuant to the Pesticide Control Act;

G. the label does not bear:

(1) the name and address of the producer, registrant or person for whom produced;

(2) the name, brand or trademark under which the pesticide is distributed;

(3) an ingredient statement on that part of the immediate container and on the outside container or wrapper, if there be one through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of purchase. However, the department may permit the ingredient statement to appear prominently on some other part of the container, if the size or form of the container makes it impracticable to place the ingredient statement on the part which is presented or displayed under customary conditions of purchase;

(4) directions for use and a warning or caution statement which are necessary and which, if complied with, would be adequate for the protection of health and protection against injury to plants and animals including man and protection against any unreasonable adverse effects on the environment;

(5) the net weight or measure of the contents;

(6) the registration number assigned the pesticide and the registration number of the person formulating the pesticide by the United States environmental protection agency; and

(7) a statement of the use classification under which the product is registered, if required by federal or state regulations;

H. the pesticide contains any substance or substances in quantities highly toxic to man, as determined by the board unless the label bears, in addition to any other matter required by the Pesticide Control Act:

(1) the skull and crossbones or any other symbol required for registration by the United States environmental protection agency;

(2) the word "POISON" prominently printed in red on a background of distinctly contrasting color; and

(3) a statement of an antidote or practical treatment in case of poisoning by the pesticide;

I. the pesticide container does not bear a label or if the label does not contain all the information required by the Pesticide Control Act and the regulations adopted pursuant to the act, or both;

J. the label for a spray adjuvant fails to state the type or function of the functioning agents; or

K. the label is not printed in English and Spanish, as prescribed by the United States environmental protection agency and by regulations of the board.

History: 1953 Comp., § 45-25-4, enacted by Laws 1973, ch. 366, § 4.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 55.

76-4-5. Prohibited acts.

A. It is unlawful for any person to distribute within the state, to deliver for transportation or transport in intrastate commerce, or between points within this state through any point outside this state, or use any of the following:

(1) any pesticide which has not been registered in accordance with the Pesticide Control Act or regulations adopted pursuant to that act;

(2) any pesticide if any of the claims made for it or any of the directions for its use or other labeling differs from the representations made in connection with its registration, or if the composition as represented in connection with its registration, differs. However, at the discretion of the department, a change in the labeling of a pesticide except changes in the ingredient statement may be made within a registration period without requiring reregistration of the product if the change will not have unreasonable adverse effects on the environment;

(3) any pesticide, unless it is in the unbroken immediate container of the registrant or manufacturer and there is affixed to the container, and to the outside container or wrapper of the retail package, if there is

one through which the required information on the immediate container cannot be clearly read, a label bearing information required in the Pesticide Control Act and the regulations adopted pursuant to that act;

(4) any pesticide which has not been colored or discolored as required by the Pesticide Control Act;

(5) any pesticide which does not meet the professed standard of quantity or quality, as expressed on the labeling under which it is sold, or in which any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent has been wholly or in part abstracted or if any contaminated is misbranded or is present in an amount determined by the department to be a hazard;

(6) any device which is misbranded; or

(7) any pesticide in containers violating regulations adopted pursuant to the Pesticide Control Act, or pesticides found in damaged containers which constituted a hazard to the environment.

B. It is unlawful:

(1) to distribute a restricted use pesticide to any person who is required by law or regulations promulgated pursuant to the Pesticide Control Act to have a permit to use or purchase restricted use pesticides, unless the person or his agent, to whom sale or delivery is made, has a valid permit to use or purchase the kind and quantity of the restricted use pesticide. However, subject to conditions established by the department, such permit may be obtained from any person designated by the department immediately prior to distribution;

(2) for any person to detach, alter, deface or destroy, wholly or in part, any label or labeling provided for in the Pesticide Control Act or regulations adopted pursuant to that act, or to add any substance to, or take any substance from, a pesticide in a manner that may defeat the purpose of the Pesticide Control Act or the regulations adopted thereunder;

(3) for any person to use or cause to be used any restricted use pesticide contrary to directions on the label or to regulations of the board if those regulation differ from or further restrict the labeling;

(4) for any person to use for his own advantage or to reveal, other than to the department, or to the courts of the state in response to a subpoena, or to physicians, or in emergencies to pharmacists and other qualified persons for use in the preparation of a practical treatment including first aid, in case of poisoning, any information relative to formulas of products acquired by authority of the Pesticide Control Act;

(5) for any person to handle, transport, store, display, distribute or use pesticides in such a manner as to endanger man and his environment or to endanger food, feed or any other products that may be transported, stored, displayed or distributed with such pesticides; or

(6) for any person to dispose of, discard or store any pesticides or pesticide containers in a manner that may cause injury to humans, vegetation, crops, livestock, wildlife, pollinating insects or to pollute any water supply or waterway.

History: 1953 Comp., § 45-25-5, enacted by Laws 1973, ch. 366, § 5.

ANNOTATIONS

Cross references. — For penalties, *see* 76-4-34 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 42, 50, 51.

3 C.J.S. Agriculture § 87.

76-4-6. Registration.

A. Each pesticide or device that is distributed within the state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be registered with the department subject to the provisions of the Pesticide Control Act. However, the registration is not required if a pesticide is shipped from one plant or warehouse operated by the same person and used solely at such plant or warehouse as a constituent part to make a pesticide which is registered under the provisions of the Pesticide Control Act.

B. The applicant for registration shall file a statement with the board which includes:

(1) the name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant's;

(2) the name of the pesticide or device;

(3) other necessary information required for completion of the application for registration form;

(4) a complete copy of the labeling accompanying the pesticide or device and a statement of all claims including the directions and precautions for use; and

(5) the use classification of the pesticide, if required by federal or state regulations.

C. The department when it deems it necessary in the administration of the Pesticide Control Act, may require the submission of the complete formula of any pesticide including all ingredients which will prevent, destroy, repel, control or mitigate pests, or which will act as a plant regulator, defoliant, desiccant or those which act as a functioning agent in a spray adjuvant, and all ingredients which do not perform these functions.

D. The department may require a full description of the tests made and the results thereof upon which the claims are based on any pesticide, device or on any pesticide or device on which restrictions are being considered. In the case of renewal of registration, the applicant shall be required to furnish only information which is different from that furnished when the pesticide was registered or reregistered during the previous license year.

E. The board may prescribe other necessary information by regulation.

F. The applicant desiring to register a pesticide or device shall pay an annual prescribed registration fee for each pesticide or device registered.

G. Any registration approved by the department and in effect on December 31 of the year for which a renewal application has been made and the proper fee paid, shall continue in full force and effect until the department notifies the applicant that the registration has been renewed or denied in accord with the provisions of the Pesticide Control Act. Forms for reregistration shall be mailed to registrants at least thirty days prior to the due date.

H. If it appears to the department that the composition of the pesticide warrants the proposed claims for it and if the pesticide or device and its labeling and other material submitted comply with the requirements of the Pesticide Control Act, the department shall register the pesticide or device.

I. All federal, state and county agencies or municipalities shall register all pesticides or devices distributed by them but shall not be required to pay the registration fee.

History: 1953 comp., § 45-25-6, enacted by Laws 1973, ch. 366, § 6.

ANNOTATIONS

Law reviews. — For article, "An Administrative Procedure Act For New Mexico," see 8 Nat. Resources J. 114 (1968).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 42.

3 C.J.S. Agriculture §§ 95, 97.

76-4-7. Experimental use permits.

A. No person shall conduct field tests using a pesticide not registered with the department or a registered pesticide for a use not previously approved in the registration without first having obtained an experimental use permit from the department.

B. Any person may apply to the department for an experimental use permit for a pesticide. The department may issue an experimental use permit if it determines that the applicant needs the permit in order to accumulate information necessary to register a pesticide. The department may refuse to issue an experimental use permit if it determines that issuance of such permit is not warranted or that the pesticide use to be made under the proposed terms and conditions may cause unreasonable adverse effects on the environment.

C. Use of a pesticide under an experimental use permit shall be under the supervision of the department and shall be subject to the terms and conditions and be for the period of time prescribed by the department in the permit.

D. The department may revoke any experimental use permit at any time, if it finds that the terms or conditions of the permit are being violated, or that its terms and conditions are inadequate to avoid unreasonable adverse effects on the environment.

History: 1953 Comp., § 45-25-7, enacted by Laws 1973, ch. 366, § 7; 1979, ch. 394, § 2.

76-4-8. Refusal to register; cancellation; suspension.

A. If it does not appear to the department that the pesticide or device warrants the proposed claims or if the pesticide or device and its labeling and other required material do not comply with the provisions of the Pesticide Control Act or regulations adopted thereunder, the department shall notify the applicant of the manner in which the pesticide, device, labeling or other required material fails to comply with the provisions of the Pesticide Control Act and permit the applicant to make the necessary corrections. If, upon receipt of such notice, the applicant does not make the required changes, the department may refuse to register the pesticide or device.

B. The department may, when it determines that a pesticide or device or its labeling does not comply with the provisions of the Pesticide Control Act or the regulations adopted thereunder, cancel the registration of a pesticide or device.

C. The department shall, when it determines that a situation exists in which the continued use of a pesticide during the time required for cancellation under the Pesticide Control Act would likely result in unreasonable adverse effects on the environment, suspend on their own motion, the registration or a pesticide or device.

History: 1953 Comp., § 45-25-8, enacted by Laws 1973, ch. 366, § 8.

ANNOTATIONS

Cross references. — For stop sale, use or removal order, *see* 76-4-11 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 42.

3 C.J.S. Agriculture §§ 98, 100.

76-4-9. Department to administer and enforce act; board to adopt regulations; scope of regulations.

The department shall administer and enforce the provisions of the Pesticide Control Act and regulations promulgated by the board.

A. The board may after notice and public hearing adopt regulations for carrying out the purpose and provisions of the Pesticide Control Act, including regulations providing for:

(1) declaring as a pest any form of plant or animal life or virus, other than man and other than bacteria, viruses and other microorganisms on or in living man or other living animals, which is injurious to health or the environment;

(2) designating certain pesticides to be highly toxic to any animal including man;

(3) determining standards for identifying pesticides by color, taste, odor or form;

(4) the collection and examination of devices or samples of pesticides for analysis;

(5) requiring pesticide applicators to notify land owners of property adjoining the property to be treated, or in the immediate vicinity thereof, of a proposed application of a pesticide, if such a notice is necessary to carry out the purpose of the Pesticide Control Act; and for a hearing before the director of the department of any objecting owner of property adjoining the property to be treated before the application of the pesticide;

(6) the safe handling, transportation, storage, display, distribution, use and disposal of pesticides and their containers;

(7) establishing standards with respect to the package, container or wrapping in which a pesticide is distributed;

(8) restricting or prohibiting the use of certain types of containers or packages for specific pesticides. These restrictions may apply to type of construction, strength and size or any combination thereof to alleviate danger of spillage, breakage, misuse or any other hazard to the public;

(9) procedures for making pesticide recommendation;

(10) adopting a list of restricted use pesticides for the state or for designated areas within the state;

(11) regulating the time and conditions of distribution, sale or use of the restricted use pesticides;

(12) requiring all persons issued licenses to offer technical advice, to sell or to use restricted use pesticides to maintain records as prescribed by the department;

(13) certification of private applicators;

(14) label requirements of all pesticides required to be registered under provisions of the Pesticide Control Act;

(15) regulating the labeling of devices;

(16) procedures and techniques to be used in sampling land, including agricultural products that are to be consumed by man or animals for pesticide residues;

(17) classifying pesticides for general use, restricted use or both;

(18) prescribing methods to be used in the application of pesticides where the department finds that such regulations are necessary to carry out the purpose and intent of the Pesticide Control Act. Such regulations may relate to the time, manner, methods, materials and amounts and concentrations in connection with the application of the pesticides and may restrict or prohibit use of pesticides in designated areas during specified periods of time and shall encompass all reasonable factors which the department deems necessary to prevent damage or injury by drift or misapplication to plants, including forage plants, or adjacent or nearby lands; wildlife in the adjoining or nearby areas; fish and other aquatic life in waters in reasonable proximity to the area to be treated; and humans, animals or beneficial insects. In issuing such regulations, the board shall give consideration to pertinent research findings and recommendations of other agencies of the state, the federal government or other reliable sources;

(19) requiring any pesticide use dilution to be colored or discolored if it determines that such requirement is feasible and is necessary for the protection of health and the environment;

(20) establishing good pesticide use and handling practices for commercial pesticide applicators;

(21) establishing requirements for supervision of servicemen of structural pest control applicators; and

(22) regulating false or misleading advertisement in the sales or use of pesticides and devices.

B. The board shall adopt regulations that are consistent with regulations of the New Mexico environmental improvement board, the New Mexico water quality control commission and the laws administered by the regulations of the United States environmental protection agency.

C. The department is authorized to specify the quantities and concentrations of restricted use pesticides that may be applied.

History: 1953 Comp., § 45-25-9, enacted by Laws 1973, ch. 366, § 9; 1979, ch. 394, § 3.

ANNOTATIONS

Law reviews. — For article, "Constitutional Limitations on the Exercise of Judicial Functions by Administrative Agencies," see 7 Nat. Resources J. 599 (1967).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 20, 21.

3 C.J.S. Agriculture § 96.

76-4-9.1. State preemption.

Except as otherwise authorized in the Pesticide Control Act, no city, county or other political subdivision of the state and no home rule municipality shall adopt or continue in effect any ordinance, rule, regulation or statute regarding the registration, labeling, distribution, sale, handling, use, application, transportation or disposal of pesticides.

History: Laws 1992, ch. 25, § 1.

ANNOTATIONS

Effective dates. — Laws 1992, ch. 25 contained no effective date provision, but, pursuant to N.M. Const., art IV, § 23, was effective on May 20, 1992.

76-4-10. Sampling and examination of pesticides or devices; residue analysis.

A. The sampling and examination of pesticides or devices shall be made under the direction of the department for the purpose of determining if they comply with the requirements of the Pesticide Control Act.

B. The sampling of land, including agricultural products that are to be consumed by man or animals, may be made by the department to determine if pesticide residues are present that will cause unreasonable adverse effects on the environment or if the residues exceed the tolerance established by the United States environmental protection agency, New Mexico environmental improvement agency [department of environment] or restrictions established by other federal or state regulatory agencies.

History: 1953 Comp., § 45-25-10, enacted by Laws 1973, ch. 366, § 10.

ANNOTATIONS

Bracketed material. — The bracketed material was inserted by the compiler and is not part of the law.

The environmental improvement agency was abolished by Laws 1977, ch. 253, § 5. Section 4 of that act established the health and environment department, consisting of several divisions, including the environmental improvement division. Section 14 of that act provided that all references in law to the agency shall be construed to be references to the environmental improvement division. Laws 1991, ch. 25, § 4

established the department of environment and provided that all references to the environmental improvement division of the health and environment department shall be construed to mean the department of environment.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 53.

3 C.J.S. Agriculture § 99.

76-4-11. "Stop sale, use or removal" order.

When the department has reasonable cause to believe a pesticide or device is being distributed, used, stored or transported in violation of any of the provisions of the Pesticide Control Act or regulations adopted pursuant thereto, the department may issue and serve a written "stop sale, use or removal" order upon the owner or custodian of the pesticide or device. If the owner or custodian is not available to receive the order, the department may attach the order to the pesticide or device and notify the registrant. The pesticide or device shall not be distributed, used or removed until the provisions of the Pesticide Control Act have been complied with and the pesticide or device has been released in writing under conditions specified by the department or the alleged violation has been otherwise disposed of as provided in the Pesticide Control Act by a court of competent jurisdiction.

History: 1953 Comp., § 45-25-11, enacted by Laws 1973, ch. 366, § 11.

ANNOTATIONS

Cross references. — For judicial action after stop sale, use or removal order, *see* 76-4-12 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 42.

76-4-12. Judicial action after "stop sale, use or removal" order.

A. After service of a "stop sale, use or removal" order is made upon any person, that person or the registrant or the department may file an action in a court of competent jurisdiction, in the county in which a violation of the Pesticide Control Act or regulations adopted thereunder is alleged to have occurred, for an adjudication of the alleged violation. The court in such action may issue temporary or permanent injunctions, mandatory or restraining, and such intermediate orders as it deems necessary or advisable. The court may order condemnation of any pesticide or device that does not meet the requirements of the Pesticide Control Act or regulations adopted thereunder.

B. If the pesticide or device is condemned, it shall, after entry of decree, be disposed of by destruction or sale as the court directs. However, the pesticide or device shall not be sold contrary to the provisions of the Pesticide Control Act or regulations adopted thereunder. Upon payment of the costs of the condemnation proceedings and the execution and delivery of a bond as prescribed by the court to assure the pesticide or device shall not be sold or disposed of contrary to the provisions of the Pesticide Control Act or regulations adopted pursuant thereto, the court may direct that the pesticide or device be delivered to the owner thereof for relabeling, reprocessing or otherwise bringing the product into compliance.

C. When a decree of condemnation is entered against the pesticide or device, court costs, fees, storage and other proper expenses shall be awarded against the person, if any, appearing as claimant of the pesticide or device.

History: 1953 Comp., § 45-25-12, enacted by Laws 1973, ch. 366, § 12.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 42.

3 C.J.S. Agriculture § 100.

76-4-13. Pesticide dealer license.

A. It is unlawful for any person to act in the capacity of a pesticide dealer, or advertise as, or assume to act as a pesticide dealer at any time without first having obtained an annual license from the department. A license shall be required for each location or outlet located within this state from which pesticides are distributed. Any manufacturer, registrant or distributor who has no pesticide dealer outlet licensed within this state and who distributes pesticides directly into this state shall obtain a pesticide dealer license for his principal out-of-state location or outlet.

B. Application for a license shall be accompanied by the prescribed annual license fee and shall be on a form provided by the department. The application shall include:

(1) the full name and title of the person applying for the license;

(2) the address of each outlet to be licensed;

(3) the principal business address of the applicant;

(4) the name of a person domiciled in this state authorized to receive and accept service of summons and legal notices of all kinds for the applicant; and

(5) any other necessary information prescribed by the department.

C. Provisions of this section shall not apply to a licensed pesticide applicator who sells pesticides only as an integral part of his pesticide application service when the pesticides are dispensed only through an apparatus used for such pesticide application, or any federal, state or county agency, or municipality which provides pesticides only for its own programs.

D. Each pesticide dealer shall be responsible for the acts of each individual employed by him in the solicitation and sale of pesticides and all claims and recommendations for the use of pesticides. The dealer license shall be subject to denial, suspension or revocation after a hearing for any violation of the Pesticide Control Act or regulations adopted thereunder, whether committed by the dealer or by an officer, agent or employee of the dealer.

History: 1953 Comp., § 45-25-13, enacted by Laws 1973, ch. 366, § 13.

ANNOTATIONS

Cross references. — For grounds for denial, suspension or revocation of license, *see* 76-4-23 NMSA 1978.

76-4-14. Pest management consultant.

No individual shall perform services as a pest management consultant without first obtaining from the department an annual license. Application for a license shall be on a form provided by the department and shall be accompanied by the prescribed fee. Licensed pesticide applicators and operators and employees of federal, state and county agencies, or municipalities, when acting in their official capacities, shall be exempt from this licensing provision.

History: 1953 Comp., § 45-25-14, enacted by Laws 1973, ch. 366, § 14.

76-4-15. Public pest management consultant.

A "public pest management consultant" means any individual who is employed by a governmental agency or municipality to act as a pest management consultant. No person shall act as a public pest management consultant without first obtaining an annual nonfee license from the department. Application for a license shall be on a form provided by the department. The nonfee license shall be valid only when the consultant is acting in that capacity as an employee of his governmental employer. Federal and state employees whose principal responsibilities are in pesticide research shall be exempt from this licensing provision while acting in their official capacities.

History: 1953 Comp., § 45-25-15, enacted by Laws 1973, ch. 366, § 15.

76-4-16. Examinations for pest management consultant license.

The department shall require each applicant for a pest management consultant license or a public pest management consultant license to demonstrate the applicant's knowledge of pesticide laws and regulations, pesticide hazards and the safe distribution, use, application and disposal of pesticides by satisfactorily passing a written examination for the classification for which he has applied, prior to issuing his license. The prescribed examination fee shall be paid for the initial examination and other examinations needed to qualify the applicant to perform services as a pest management consultant. The public pest management consultant shall not be required to pay the examination fee and an examination shall be administered upon request.

History: 1953 Comp., § 45-25-16, enacted by Laws 1973, ch. 366, § 16.

76-4-17. Commercial pesticide applicator license.

A. It is unlawful for any person to engage in the business of applying pesticides at any time to land not owned or occupied by him without a commercial pesticide applicator license issued by the department. The commercial pesticide applicator shall pay an annual prescribed fee for each license issued. Should any apparatus fail to pass inspection making it necessary for an additional inspection to be made, the department

shall require a prescribed inspection fee. In addition to the required inspection, additional inspections may be made to determine if equipment is properly calibrated and maintained in conformance with the Pesticide Control Act and regulations adopted pursuant thereto.

B. Application for a license shall be on a form provided by the department.

C. The department shall not issue a commercial pesticide applicator license until the applicant has passed an examination to demonstrate his knowledge of how to apply pesticides under the classification or classifications he has applied for, and his knowledge of the nature and effect of pesticides he may apply. The department shall charge the prescribed examination fee for the initial examination and other examinations needed to qualify the applicant to apply pesticides.

D. The department shall renew any applicant's license under the classification for which the applicant is certified; provided that the applicant's license is not under a suspension or revocation order and he has met the provisions of the Pesticide Control Act.

E. The department shall not issue a commercial applicator license if it has been determined that:

(1) the applicant has been convicted within the last five years of a felony involving fraud;

(2) the applicant has had revoked within the last two years a previous license authorized by the Pesticide Control Act;

(3) the applicant has been unable to satisfactorily fulfill the certification requirements; or

(4) [the applicant] has had any pesticide application or a license denied, revoked or suspended in any state in the last five years.

F. All applicants for a commercial applicator license shall meet at least one of the following requirements prior to being issued a license and shall file proof of compliance as specified by the department:

(1) documentation of two years of pesticide application experience in the category or related category for which application is being made; or

(2) documentation of one year of pesticide application experience in the category or related category for which application is being made and not less than twenty college credit hours in biological or agricultural sciences.

History: 1953 Comp., § 45-25-17, enacted by Laws 1973, ch. 366, § 17; 1979, ch. 394 § 4.

ANNOTATIONS

Bracketed material. — The bracketed material was inserted by the compiler and it is not part of the law.

Cross references. — For inspection of apparatus, *see* 76-4-26 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 101.

76-4-18. Operator license.

A. It is unlawful for any individual to act as an employee of a commercial pesticide applicator and apply pesticides without having obtained an operator license from the department.

B. The department shall issue an operator license when the applicant has passed an examination to demonstrate his ability to apply pesticides safely and effectively with the type of apparatus and in the classification for which he has applied. The department shall charge the prescribed examination fee for each examination administered.

C. The provisions of this section shall not apply to any individual who is a licensed commercial pesticide applicator.

History: 1953 Comp., § 45-25-18, enacted by Laws 1973, ch. 366, § 18; 1979, ch. 394, § 5.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 101.

76-4-19. Application of act to governmental entities; public applicator's license required.

A. A public applicator shall be subject to the provisions of the Pesticide Control Act and rules adopted pursuant to that act.

B. Public applicators shall be subject to examinations or other licensing provisions as provided in the Pesticide Control Act or by rule promulgated by the board. The department shall issue a limited license without fee to the public applicator who has qualified for the license. The public applicator license shall be valid only when the applicator is acting as an applicator applying pesticides used by federal, state, county or municipal agencies or municipal corporations. Government research personnel shall be exempt from this licensing requirement only when applying general use pesticides to experimental plots.

History: 1953 Comp., § 45-25-19, enacted by Laws 1973, ch. 366, § 19; 1979, ch. 394, § 6; 2009, ch. 101, § 2; 2009, ch. 109, § 2.

ANNOTATIONS

The 2009 amendment, effective June 19, 2009, in Subsection A, at the beginning of the sentence, deleted "All state agencies, federal agencies and municipal corporations or any other governmental agency", added "A public applicator"; and at the end of the sentence, deleted "thereunder concerning the application of pesticides unless exempt under other sections of the Pesticide Control Act"; and added "pursuant that act"; in Subsection B, after "Public applicators", deleted "for agencies listed in this section"; after "examinations", added "or other licensing provisions"; added "or by rule promulgated by the board; after "applicator applying", deleted "or supervising application of restricted use"; and after "pesticides used by", deleted "such entities"; and added "federal, state, county or municipal agencies or municipal corporations".

Laws 2009, ch. 101, § 2 and Laws 2009, ch. 109, § 2 enacted identical amendments to this section. The section was set out as amended by Laws 2009, ch. 109, § 2. *See* 12-1-8 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 43.

3 C.J.S. Agriculture § 101.

76-4-20. Private applicators.

A. No private applicator shall use a restricted use pesticide without first complying with the certification requirements determined by the department as necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator or other persons.

B. In determining these certification requirements, the board shall take into consideration standards of the United States environmental protection agency. Certification requirements for a private applicator to be certified to use restricted use pesticides may include but shall not be limited to the following:

(1) the applicant shall acknowledge that he understands and will abide by the label precautions by signing a dealer's pesticide register. The register shall include the name and address of the private applicator and other information as prescribed by the department. The dealer shall keep a record of all restricted use pesticides distributed to a private applicator;

(2) the applicant shall obtain a user permit prior to purchase and use of the pesticide. The department may issue restricted use pesticide permits to private applicators who have documented the crops, location and acreage on the permit for the seasonal or temporary period for which their permit is issued. User permits shall only be issued for registered or experimental uses and shall be subject to other limitations as specified by the department. The limitations may include limiting the areas of use, the timing or method of application and limiting the amount of the pesticide to that needed to cover the acreage to be treated;

(3) the applicant shall be required to pass a written examination demonstrating his competency with respect to the use and handling of the pesticide or pesticides covered by his certification prior to purchase and use of the product; and

(4) the applicant shall be required to obtain approval from the department for each application involving a specific risk to the environment. The applicant shall submit to the department an application form for a special review permit. The application shall include detailed information on the intended use, the responsible person in charge and the equipment and conditions under which the pesticide application is to be made. The department in reviewing the application for a special review permit may require additional restrictions such as on-site inspection or supervision.

C. The department shall charge the prescribed fee for each certification.

D. If a private applicator does not qualify, the department shall inform the applicant in writing.

E. Private applicator certification shall be valid for a period of not less than three years, established by the board.

History: 1953 Comp., § 45-25-20, enacted by Laws 1973, ch. 366, § 20; 1979, ch. 394, § 7.

76-4-20.1. Noncommercial applicator license.

A. A noncommercial applicator shall not use a restricted use or state restricted use pesticide without having a valid current noncommercial applicator license issued by the department for the license use

categories and subcategories in which the pesticide application is made.

B. Application for an original or renewal license shall be on a form prescribed by the department. An annual prescribed fee shall be charged for each noncommercial applicator license issued.

C. The department shall not issue a noncommercial applicator license until the applicant has passed a written certification examination to demonstrate to the department the applicant's knowledge of how to apply pesticides under the classifications for which the applicant has applied and the applicant's knowledge of the nature and effect of pesticides the applicant may apply under such classifications.

D. The department shall renew any applicant's license under the classification for which the applicant is certified; provided that the applicant's license is not under a suspension or revocation order and the applicant has complied with the provisions of the Pesticide Control Act.

E. Nothing in this section shall imply the right to apply pesticides for hire without first having obtained a commercial applicator license.

History: Laws 1979, ch. 394, § 8; 2009, ch. 101, § 3; 2009, ch. 109, § 3.

ANNOTATIONS

The 2009 amendment, effective June 19, 2009, in Subsection A, at the beginning of the sentence, deleted the phrase "Any person who is not a private applicator, commercial applicator or public applicator, except a person working under their direct supervision" and added the phrase "A noncommercial applicator".

Laws 2009, ch. 101, § 3 and Laws 2009, ch. 109, § 3 enacted identical amendments to this section. The section was set out as amended by Laws 2009, ch. 109, § 3. *See* 12-1-8 NMSA 1978.

76-4-21. Expiration date of licenses.

The board shall set by regulation the expiration date for the annual pesticide registration or any license provided for in the Pesticide Control Act.

History: 1953 Comp., § 45-25-21, enacted by Laws 1973, ch. 366, § 21; 1979, ch. 394, § 9.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 101.

76-4-22. Fees.

A. Fees for the registration of pesticides, the various licenses, inspection of apparatuses and examination of applicants required by the Pesticide Control Act shall be set by the board not to exceed the amount authorized below:

(1) annual registration fee for each pesticide or device registered, not more than $150;

(2) annual pesticide dealer license for each location or outlet within the state or, if there is no outlet in the state, for the principal out-of-state location or outlet, not more than $100;

(3) annual pest management consultant license, not more than $100;

(4) annual commercial pesticide applicator license, not more than $100;

(5) annual operator license, not more than $75.00;

(6) annual noncommercial applicator license, not more than $100;

(7) private applicator certification or renewal, not more than $25.00;

(8) additional inspection required to certify each unit of aircraft, ground or manual equipment that fails to pass inspection, not more than. $25.00;

and

(9) examination fee for each examination needed to qualify the applicant as a pest management consultant, commercial pesticide applicator, noncommercial applicator or operator or any combination thereof, not more than $20.00;

provided that the board may index the amount of a fee for inflation until July 1, 2031 using the consumer price index for all urban consumers: all items published by the United States department of labor.

B. If the application for the renewal of a pesticide registration or any annual license provided for in the Pesticide Control Act is not filed prior to the expiration date of the prior registration or license, the fee for renewal of registration or license shall be double the amount charged for the prior registration or license and shall be paid by the applicant before the renewal registration or license is issued. Any person holding a current valid license may renew the license for the next year without taking an examination unless the department determines that additional knowledge relating to the classification for which the applicant has applied makes a new examination necessary. However, if the license is not renewed within thirty days after expiration, the licensee shall be required to take new certification examinations.

History: 1953 Comp., § 45-25-22, enacted by Laws 1973, ch. 366, § 22; 1979, ch. 394, § 10; 2005, ch. 200, § 1; 2026, ch. 13, § 3.

ANNOTATIONS

The 2026 amendment, effective July 1, 2026, authorized the board of regents of New Mexico state university to impose increases to fees up to the rate of inflation measured in the consumer price index for all urban consumers through the end of fiscal year 2031, and made conforming amendments; in Subsection A, Paragraph A(9), after the semicolon, added the remainder of the paragraph; and in Subsection B, after

"double the amount" deleted "specified in this section" and added "charged for the prior registration or license".

The 2005 amendment, effective June 17, 2005, increased the registration fees in Subsection A(1) through (7) and (9).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 95.

76-4-23. Grounds for denial, suspension or revocation of license, permit or certification; acts constituting a violation of the Pesticide Control Act.

A. The department may deny application for any license, permit or certification or may suspend any license, permit or certification when it has reason to believe that the applicant for or the holder of such license, permit or certification has violated any of the provisions of Subsection B of this section.

B. It is a violation of the Pesticide Control Act for any person to:

(1) make a false or fraudulent claim through any media which misrepresents the effect of material or methods to be used;

(2) make a pesticide recommendation or to use a pesticide in a manner inconsistent with the labeling;

(3) apply known ineffective or improper materials;

(4) operate faulty or unsafe apparatus;

(5) operate in a faulty, careless or negligent manner;

(6) refuse or, after notice, neglect to comply with the provisions of the Pesticide Control Act or the rules and regulations adopted pursuant thereto;

(7) refuse or neglect to keep and maintain the records or to make reports when and as required by the Pesticide Control Act or rules and regulations adopted pursuant thereto;

(8) make false or fraudulent records, invoices or reports;

(9) engage in the business of applying a pesticide on the land of another without having a licensed applicator or operator in direct "on-the-job" supervision;

(10) use fraud or misrepresentation in making an application for a license or renewal of a license;

(11) refuse or neglect to comply with any limitation or restriction on or in a duly issued license or permit;

(12) aid or abet a licensed or an unlicensed person to evade any provision of the Pesticide Control Act, conspire with a licensed or an unlicensed person to evade the provisions of the Pesticide Control Act or allow one's license to be used by an unlicensed person;

(13) make false or misleading statements during or after an inspection concerning any infestation or infection of pests found on land;

(14) impersonate any state, county or city inspector or official;

(15) perform the type of pest control under the conditions and in the locality in which he operates or has operated, whether or not he has previously passed an examination, when not qualified;

(16) use, or supervise the use of, a pesticide which is restricted to use by certified applicators when not qualified as a certified applicator; or

(17) make pesticide recommendations or apply pesticides without having the proper certification or license.

C. Any person who has had a license, permit or certification denied, suspended or revoked by the department may request a hearing before the department. The request for a hearing shall be made within fifteen days of receipt of a certified letter notifying him of the department's action.

History: 1953 Comp., § 45-25-23, enacted by Laws 1973, ch. 366, § 23; 1979, ch. 394, § 11.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 20.

Liability of termite or other pest control or inspection contractor for work or representations, 32 A.L.R.4th 682.

76-4-24. Surety bond or insurance required of commercial pesticide applicators.

The department shall not issue a commercial pesticide applicator license until the applicant has furnished evidence of financial responsibility with the department consisting either of a surety bond or a liability insurance policy or certification thereof, protecting persons who may suffer legal damages as a result of the operations of the applicant. However, the surety bond or liability insurance policy need not apply to damages or injury to land being worked upon by the applicant. The department shall not accept a surety bond or liability insurance policy except from authorized insurers or surplus line brokers authorized to do business in the state.

A. The amount of the surety bond or liability insurance as provided for in this section shall be set by the board. The surety bond or liability insurance shall be maintained, at a sum not less than that specified by the board, at all times during the license period. The department shall be notified ten days prior to any reduction made at the request of the applicant or cancellation of the surety bond or liability insurance by the surety or insurer. The department may accept a liability insurance policy or surety bond in the proper sum which has a deductible clause in an amount prescribed by the board. If the applicant has not satisfied the requirements of the deductible amount in any prior legal claim, such deductible clause shall not be accepted by the department unless the applicant furnishes the department with a surety bond or liability insurance which shall satisfy the amount of the deductible pertaining to all claims that may arise in his application of pesticides.

B. The applicator license shall, whenever the surety bond or insurance policy of the licensee is reduced below the requirements of the Pesticide Control Act and regulations adopted pursuant thereto, be automatically suspended until the surety bond or insurance policy again meets these requirements. The department may retrieve the license plates or decal of the licensee during the period of automatic suspension

and return them only when the licensee has furnished the department with written proof that he is again in compliance.

C. Nothing in the Pesticide Control Act shall be construed to relieve any person from liability for any damage to the person or lands of another caused by the use of pesticides, even though such use conforms to the rules and regulations of the board.

History: 1953 Comp., § 45-25-24, enacted by Laws 1973, ch. 366, § 24.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 101.

76-4-25. Damaged person must file report of loss; contents; time of filing; effect of failure to file.

A. Any person suffering a loss or damage resulting from the use or application by others of any pesticide shall file with the department a verified report of loss setting forth, so far as known to the claimant, the following:

(1) the name and address of the claimant;

(2) the type of land alleged to be injured or damaged;

(3) the name of the person applying the pesticide and allegedly responsible;

(4) the name of the owner or occupant of the property for whom the pesticide application was made; and

(5) additional information as requested by the department.

B. The report must be filed within sixty days from the time that the loss or damage becomes known to the claimant. If a growing crop is alleged to have been damaged, the report must be filed prior to harvest of fifty percent of that crop, unless the loss or damage was not then known. The department may prepare a form to be furnished to persons making a report of alleged damages. This form shall contain other requirements as the department deems necessary. The department may, upon receipt of the alleged damage report, notify the licensee and the owner or lessee of the land or other person who may be charged with the responsibility, of the damages claimed, and furnish copies of the statements as may be requested. The department shall inspect damages whenever possible, and when they determine that the complaint has sufficient merit, they shall make the information available to the person claiming damage and to the person who is alleged to have caused the damage.

C. The filing of a report or the failure to file a report need not be alleged in any complaint which might be filed in a court of law, and the failure to file the report shall not be considered any bar to the maintenance of any action.

D. The failure to file the report shall not be a violation of this act. However, if the person failing to file the report is the only one injured from the use or application of a pesticide by others, the department may, when in

the public interest, refuse to hold a hearing for the denial, suspension or revocation of a license or permit issued under the Pesticide Control Act until the report is filed.

E. Where damage is alleged to have occurred, the claimant shall permit the department, the licensee and his representatives, such as bondsman or insurer, to observe and examine the lands or nontarget organism alleged to have been damaged. Failure of the claimant to permit the observation and examination of the damaged lands shall automatically bar the claim against the licensee.

History: 1953 Comp., § 45-25-25, enacted by Laws 1973, ch. 366, § 25.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 47.

Infliction of emotional distress: toxic exposure, 6 A.L.R.5th 162.

3 C.J.S. Agriculture § 86.

76-4-26. Inspection of equipment.

A. The department shall provide for an annual inspection of any equipment used for the application of pesticides by a commercial pesticide applicator and may require repairs or other changes before the equipment is used to apply pesticides. A list of requirements that the equipment shall meet shall be provided by the department.

B. Any piece of equipment which fails inspection shall have affixed to it an out-of-order seal. The equipment shall not be put back into service until it has passed reinspection and the out-of-order seal is removed by the department. A prescribed inspection fee shall be charged for each reinspection.

History: 1953 Comp., § 45-25-26, enacted by Laws 1973, ch. 366, § 26; 1979, ch. 394, § 12.

76-4-27. License plates or decals for apparatus.

Each licensed apparatus shall be identified by a license plate or decal furnished by the department, at no cost to the licensee. The license plate or decal shall be affixed in a location and manner upon the application apparatus as prescribed by the department.

History: 1953 Comp., § 45-25-27, enacted by Laws 1973, ch. 366, § 27.

76-4-28. Farmer or rancher exemption.

Except for the use of restricted use pesticides the provisions of the Pesticide Control Act relating to licenses and requirements for their issuance shall not apply to any farmer or rancher owner of a ground or manual apparatus applying pesticides for himself or his farmer or rancher neighbors, when he:

A. operates farm or ranch property and operates and maintains pesticide application equipment primarily for his own use;

B. is not regularly engaged in the business of applying pesticides for hire amounting to a principal or regular occupation and he does not publicly solicit business as a pesticide applicator; or

C. operates his pesticide application equipment only in the vicinity of his own property and for the accommodation of his neighbors.

History: 1953 Comp., § 45-25-28, enacted by Laws 1973, ch. 366, § 28.

ANNOTATIONS

76-4-29. Repealed.

ANNOTATIONS

Repeals. — Laws 1979, ch. 394, § 15, repealed 76-4-29 NMSA 1978, as enacted by Laws 1973, ch. 366, § 29, relating to the exemption of landscape gardeners from the provisions of the Pesticide Control Act.

76-4-30. Discarding and storing of pesticides and pesticide containers.

No person shall discard, transport or distribute any pesticide or pesticide container in a manner that may cause injury to humans, vegetation, crops, livestock, wildlife or beneficial insects or pollute any waterway.

History: 1953 Comp., § 45-25-30, enacted by Laws 1973, ch. 366, § 30.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture § 42.

76-4-31. Access to public or private premises.

A. For the purpose of carrying out the provisions of the Pesticide Control Act, the department is authorized upon presentation of proper identification and with consent of the owner or by court order, to enter any public or private premises, in order to:

(1) inspect any apparatus subject to the Pesticide Control Act and the premises on which the apparatus is kept or stored;

(2) inspect lands actually or reported to be exposed to pesticides;

(3) inspect storage or disposal areas;

(4) inspect or investigate complaints of injury to humans or land;

(5) sample pesticides being applied or to be applied; or

(6) sample land, including agricultural products, for pesticide residues.

B. If it appears that a pesticide apparatus or device fails to comply with the provisions of the Pesticide Control Act or regulations adopted thereunder, and if the department contemplates instituting proceedings against any person, the department shall cause notice to be given to the person. Any person so notified shall be given an opportunity to present his views, either orally or in writing, with regard to the contemplated proceedings. If thereafter, in the opinion of the department, it appears that the provisions of the Pesticide Control Act or regulations adopted thereunder have been violated by the person, the department shall refer a copy of the results of the analysis or the examination of the pesticide apparatus or device to the district attorney for the county in which the violation occurred. It is the duty of the district attorney to whom any violation of the Pesticide Control Act is reported to cause appropriate proceedings to be instituted and prosecute in a court of competent jurisdiction without delay.

C. Nothing in the Pesticide Control Act shall be construed as requiring the department to report, for prosecution or the institution of condemnation proceedings, minor violations of the Pesticide Control Act when the department believes that the public interest will be best served by a notice of warning in writing.

D. Should the department be denied access to any land where access was sought for the purposes set forth in the Pesticide Control Act, they may apply to any court of competent jurisdiction for a search warrant for the purpose requested.

History: 1953 Comp., § 45-25-31, enacted by Laws 1973, ch. 366, § 31.

ANNOTATIONS

Cross references. — For inspection of apparatus, *see* 76-4-26 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 42, 50.

3 C.J.S. Agriculture § 83.

76-4-32. Classification of licenses.

A. The department may classify licenses to be issued under the Pesticide Control Act. Such classifications may include recommending pesticides to be used in or on land, including but not limited to agricultural crops, ornamentals, structures and noncrop land or to treat regulated products or equipment. If the licensee has a classified license, he shall be limited to practicing within such classification. Each classification shall be subject to separate testing procedures and requirements. No person shall be required to pay an additional license fee if he desires to be licensed in one or all of the license classifications.

B. The department may classify pesticide applicator and operator licenses to be issued under the Pesticide Control Act. the classifications may include, but not be limited to pest control operations, fumigators, ornamental or agricultural pesticide applicators or right-of-way pesticide applicators. Separate classifications may be specified for ground, aerial or manual methods used by any licensee to apply pesticides or to the use of pesticides to control pests. Each classification shall be subject to separate testing procedures and

requirements. No person shall be required to pay an additional license fee if the person desires to be licensed in one or all of the license classifications.

History: 1953 Comp., § 45-25-32, enacted by Laws 1973, ch. 366, § 32.

ANNOTATIONS

76-4-33. Records.

A. Any person issued a license or permit under the provisions of the Pesticide Control Act shall keep such records as required by regulation of the board.

B. Commercial pesticide applicators licensed under the provisions of the Pesticide Control Act shall keep such records as prescribed by regulation of the board.

C. The department shall have access to the records at any reasonable time to copy or make copies of the records for the purpose of carrying out the provisions of the Pesticide Control Act. Unless required for the enforcement of the Pesticide Control Act, the information shall be confidential and, if summarized, shall not identify any individual person.

History: 1953 Comp., § 45-25-33, enacted by Laws 1973, ch. 366, § 33.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 95.

76-4-34. Penalties.

A. Any person violating any provision or requirement of the Pesticide Control Act or regulations adopted by the board pursuant to that act is guilty of a petty misdemeanor.

B. In addition to any other penalties imposed by the Pesticide Control Act, any person who willfully or repeatedly violates any provision of that act may be assessed by the court a civil penalty not to exceed one thousand dollars ($1,000) for each violation.

C. The board may bring an action to enjoin the violation or threatened violation of any provision of the Pesticide Control Act or any regulation made pursuant thereto in a court of competent jurisdiction of the county in which the violation occurs or is about to occur.

D. The department, acting as a law enforcement officer, is authorized to file a criminal complaint in a magistrate court for violations of the Pesticide Control Act or regulations adopted pursuant thereto and shall not be required to pay the docket fee.

History: 1953 Comp., § 45-25-34, enacted by Laws 1973, ch. 366, § 34; 1979, ch. 394, § 13.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 42, 50, 51.

3 C.J.S. Agriculture § 7.

76-4-35. Persons exempted from certain penalties.

A. The penalties provided for violations of Paragraphs (1) through (5) of Subsection A of Section 5 [76-4-5 NMSA 1978] of the Pesticide Control Act shall not apply to:

(1) any carrier while lawfully engaged in transporting a pesticide within this state, if such carrier shall, upon request, permit the department to copy all records showing the transactions in and movement of the pesticides or devices;

(2) public officials of this state and the federal government while engaged in the performance of their official duties in administering state or federal pesticide laws or regulations or while engaged in pesticide research; or

(3) the manufacturer or shipper of a pesticide for experimental use only by or under the supervision of an agency of this state or of the federal government authorized by law to conduct research in the field of pesticides if the manufacturer or shipper holds a valid experimental use permit issued by the department and by the United States environmental protection agency.

B. No pesticide or device shall be deemed in violation of the Pesticide Control Act when intended solely for export to a foreign country and when prepared or packed according to the specifications or directions of the purchaser. If not so exported, all the provisions of the Pesticide Control Act and regulations adopted thereunder shall apply.

History: 1953 Comp., § 45-25-35, enacted by Laws 1973, ch. 366, § 35.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 21, 66.

3 C.J.S. Agriculture § 53.

76-4-36. Repealed.

History: 1953 Comp., § 45-25-36, enacted by Laws 1973, ch. 366, § 36; 1977, ch. 253, § 49; 1978, ch. 39, § 1; 1979, ch. 394, § 14; 1983, ch. 296, § 29; repealed Laws 2005, ch. 235, § 1.

ANNOTATIONS

Repeals. — Laws 2005, ch. 235, § 1 repealed 76-4-36 NMSA 1978, as enacted by Laws 1973, ch. 366, § 36, relating to the pesticide advisory board, effective June 17, 2005. For provisions of former section, *see*

the 2004 NMSA 1978 on *NMOneSource.com*.

76-4-37. Publication of information.

The department may publish, in the form it deems proper, results of products analyzed, based on official samples as compared with the guaranteed analysis and information concerning the distribution and use of pesticides. Individual distribution and use information shall not be a public record. The department may also publish results of samples analyzed for pesticide residues.

History: 1953 Comp., § 45-25-37, enacted by Laws 1973, ch. 366, § 37.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 C.J.S. Agriculture § 95.

76-4-38. Cooperation.

The department may cooperate, receive grants-in-aid and enter into cooperative agreements with any agency of the federal government, of this state or its subdivisions, or with any agency of another state, in order to:

A. secure uniformity of regulations;

B. enter into cooperative agreements with the United States environmental protection agency to register pesticides under the authority of the Pesticide Control Act and the federal Environmental Pesticide Control Act;

C. cooperate in the enforcement of the federal Environmental Pesticide Control Act and regulations through the use of state or federal personnel and facilities or both and to implement cooperative enforcement programs including but not limited to the registration of pesticides, collection and analysis of pesticides and devices, inspection of storage facilities and certification of applicators;

D. enter into contracts with other agencies including federal agencies for the purpose of training pesticide dealers, pesticide management consultants, pesticide applicators or operators;

E. publish information and conduct short courses on the storage, transportation, distribution, application, use, registration and disposal of pesticides and devices and environmental implications thereof;

F. enter into contracts for either monitoring pesticides, or analyzing land, including agricultural products that will be consumed by any living organism other than plants, for pesticide residues, or both;

G. prepare and submit a state plan to meet federal certification standards including issuing experimental use permits; and

H. regulate pesticide applicators and operators.

History: 1953 Comp., § 45-25-38, enacted by Laws 1973, ch. 366, § 38.

ANNOTATIONS

Cross references. — For the federal Environmental Pesticide Control Act, *see* 7 U.S.C. § 136 et seq.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 3 Am. Jur. 2d Agriculture §§ 22 to 37, 43.

3 C.J.S. Agriculture §§ 25 to 56.

76-4-39. Disposition of funds.

All moneys received by the department under the provisions of the Pesticide Control Act shall be expended for the purpose of carrying out the provisions of the Pesticide Control Act.

History: 1953 Comp., § 45-25-39, enacted by Laws 1973, ch. 366, § 39.

ANNOTATIONS

Severability. — Laws 1973, ch. 366, § 43, provided for the severability of the act if any part or application thereof is held invalid.

Comments

NMDA did not receive any written comments.

Hearing Sign-In Sheets

Japanese Beetle +

PESTICIDES RULEMAKING HEARING

PROJECT: NMDA Rulemaking **MEETING DATE:** August ~~5~~ 4, 2026

FACILITATOR: Les Owen/Brad Lewis **LOCATION:** ~~Albuquerque~~ Las Cruces, NM

NAME	PHONE (OPTIONAL)	EMAIL (OPTIONAL)
Teri Cates	575-740-2980	tericates@yahoo.com
MARGARET Adams	575 635-5476	peggy.adams@bugyman.com

Japanese Beetle Quarantine Rule +

PESTICIDES RULEMAKING HEARING

PROJECT:	NMDA Rulemaking	**MEETING DATE:**	August 6, 2026
FACILITATOR:	Les Owen/Brad Lewis	**LOCATION:**	Albuquerque, NM

NAME	PHONE (OPTIONAL)	EMAIL (OPTIONAL)
Alan ~~Feuer~~ Feuer	505 918 3121 ~~304~~	ALAN@PPCABQ.Com
Kyleigh Serna		kserna@plantworldinc.com
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John Crowley	505.307.8695	John.Crowley@Monrovia.Com

SIGNATURE: In witness whereof, we have caused the seal of the Board of Regents of New Mexico State University to be affixed this 1st day of October 2026, for approval of:

Proposed Repeal and Replacement of the Restricted-Use Pesticides Rule, Title 21, Chapter 17, Part 56 of the New Mexico Administrative Code (21.17.56 NMAC).

_____

Ammu Devasthali, Chair
Board of Regents
New Mexico State University

Attest:

_____

Christopher Saucedo, Sec./Treasurer
Board of Regents
New Mexico State University

Board of Regents Meeting
Meeting Date: October 1, 2026
Agenda Item Cover Page

Agenda Item # IX.H

☐ Action Item
☒ Consent Item
☐ Informational Item

Presented By:

Lisa Henderson
General Counsel

Agenda Item:

Requests for amendment to RPM 18.00 and to adopt RPM 18.01

Requested Action of the Board of Regents:

Approval of amendments to RPM 18.0 and adoption of RPM 18.01

Executive Summary:
A request for approval of amendments to RPM 18.00, Foundation and Direct Support Organizations, governing the framework of NMSU relationships with the Foundation and other Direct Support Organizations; and a request for approval of a new RPM 18.01 entitled Naming University Assets are being made.

References:
Proposed policy drafts

Prior Approvals:

The proposed drafts are jointly recommended by the VP for Finance & Admin., Assist. VP for Finance & Admin., Chief of Staff, and General Counsel to the Board under RPM 1.10.A-C.

Agenda Item Approved By:

Each office may determine required signatures (if any). All items should be routed through the President's Office, University General Counsel, or the Secretary of NMDA as appropriate.

Lisa Henderson
_____
Lisa Henderson
General Counsel and Chief Legal Officer

09/22/2026
Date

18.00 Foundation and Direct Support Organizations

Policy Details

Responsible Administrator: President
Scope: NMSU System
Last Updated:

A. Policy Statement

This policy establishes the framework and standards governing the relationship between Regents of New Mexico State University (NMSU or the University) and the New Mexico State University Foundation, Inc. (Foundation), and other direct support organizations (DSO) to provide stability, long-term productivity, accountability, and effective philanthropic support to NMSU. To accomplish its mission, NMSU depends upon the engagement and support of alumni, donors, private foundations, corporations, business partners, and other external constituencies. Through its relationship with the Foundation, NMSU seeks to develop and sustain productive, long-term relationships with those who support the University.

The Foundation is an independent, separately incorporated non-profit organization established to support NMSU through private philanthropy. The Foundation acts in an independent legal capacity and not as an agent of the University. It does not have authority to bind the University, commit University funds, assets, property, or other resources, incur obligations on behalf of the University, or exercise authority reserved to the Board of Regents, the President, or other University officials.

Any project or arrangement undertaken by the Foundation or another DSO that requires the commitment or use of University or state funds, assets, property, credit, or other resources, in any form, must receive all approvals required by applicable law and University policy. Nothing in the University's relationship with the Foundation or DSOs authorizes the University or the Board of Regents to secure, guarantee, or assume debt or obligations of the Foundation or DSO except as expressly authorized by law. Naming or recognition associated with any such project or philanthropic activity is separately governed by RPM 18.01.

NMSU will maintain an individual, written Memorandum of Agreement (MOA) with the Foundation and each designated DSO. Each MOA shall comprehensively define the respective roles, responsibilities, authorities, obligations, and operational relationship between the University and the specific entity. All agreements must contain provisions necessary to fully comply with applicable law, Regents policies, University policies, and regulatory requirements.

B. Oversight, Roles, and Responsibilities

The NMSU President is responsible for implementing this Regents Policy and for establishing the University's institutional priorities and fundraising objectives. The University and the Foundation will carry out their respective responsibilities in accordance with applicable law, this and other Regents policies, University policies applicable to University activities, and the then-current Memorandum of Agreement between the University and the Foundation.

The Foundation serves as the University's primary organization for philanthropic fundraising and related advancement activities. In carrying out that role, and subject to the terms of the MOA, the Foundation's responsibilities include:

1. Conducting and coordinating philanthropic fundraising activities in support of the University and in alignment with priorities established by the University;
2. Identifying, cultivating, soliciting, and stewarding donors and prospective donors, as well as maintaining alumni and constituent relationships and engagement;
3. Receiving, acknowledging, administering, managing, and investing gifts accepted by the Foundation for the benefit of the University, consistent with donor intent, applicable law, Foundation policies, University policies as applicable, and the MOA;
4. Maintaining appropriate gift, donor, fund, and restriction records and providing the University with information necessary for stewardship, financial administration, compliance, and reporting; and
5. Coordinating with University colleges, campuses, units, programs, and other University representatives regarding fundraising strategies, campaigns, donor engagement, gift opportunities, and stewardship.

The University retains responsibility and authority for:

1. Establishing the University's mission, strategic direction, institutional priorities, fundraising objectives, academic priorities, operational objectives, and capital priorities;
2. Establishing the policies, procedures, and conditions under which NMSU recognizes, supports, or coordinates with affiliated organizations established to support the University;
3. Establishing University policies and approval requirements governing gifts or philanthropic arrangements that create or may create financial, legal, contractual, operational, academic, or reputational commitments for the University;
4. Governing the naming, renaming, and removal of names from University facilities, spaces, endowments, academic and administrative units, programs, positions, and other University assets in accordance with RPM 18.01;
5. Establishing policies and procedures governing the nomination and award of honorary degrees in accordance with applicable Regents policy and ARP 18.05; and
6. Establishing financial controls and procedures governing the receipt, administration, transfer, accounting, and expenditure of philanthropic funds.

The University and the Foundation will coordinate their respective activities to promote effective fundraising, responsible stewardship, compliance with donor intent, transparency and accountability, and the long-term interests of the University. Nothing in this policy authorizes the Foundation to establish University policy, bind the University, commit University resources, or exercise authority reserved to the Board of Regents, the President, or other University officials.

C. Reservation of Authority

The Board of Regents retain ultimate responsibility for protecting the reputation, assets, relationships, and long-term interests of the University. Toward that end, the following actions or events require formal advance approval of the Board of Regents:

1. Award of Honorary Degrees;
2. Naming, renaming, or removal of names from the University’s facilities, spaces, academic or administrative units, endowments, programs, or other University assets when Board of Regents approval is required by RPM 18.01;

3. Acceptance of any non-monetary gift which contains material restrictions regarding its use or disposition;
4. Acceptance of any gift that requires a substantial fiscal obligation by the University or creates a substantial in-kind, monetary, or future obligation of the University;
5. Acceptance of any gift that includes real property;
6. Acquisition, purchase, or long-term lease of real property; and
7. Procurement or acceptance of other significant financial or physical assets.

D. Delegation of Authority

Except for matters expressly reserved to the Board of Regents by this policy, other Regents policies, or applicable law, the Board delegates authority to the President to administer the University's advancement, philanthropic, and DSO efforts consistent with this policy. The President may further delegate administrative or approval authority to appropriate University officials as permitted by Regents policy and through applicable administrative procedures.

Authority to name, rename, or remove the name of any University facility, space, endowment, academic or administrative unit, program, or other University asset will be exercised exclusively in accordance with RPM 18.01. Nothing in this policy delegates naming authority to the Foundation.

E. Rulemaking Authorization

The Regents of New Mexico State University authorize the President and University administration to formulate and amend the Administrative Rules and Procedures (Rules) addressing University activities in the areas of advancement and philanthropy, asset management, and other direct support activities, including the areas of responsibility identified in this RPM. Such Rules will be consistent with this policy and will be adopted in accordance with **RPM 1.10** and **ARP 1.10**. The University will coordinate with the Foundation or direct support organization, as appropriate, regarding administrative procedures that materially affect coordinated activities not restricted to fundraising, gift administration, donor engagement, or stewardship under the MOA.

Related

Cross-Reference:
ARP 18.01- Naming University Assets
ARP 18.05 - Honorary Degree Awards
ARP 18.10 - Namings and Other Honorific Recognition
ARP 18.20 - University Advancement – Gift Income, NMSU Endowments, NMSU Foundation, Inc.

Revision History:10/01/2026 Policy revised by the BOR
Recompiled 2017
06/27/2016 Policy adopted by the BOR, superseding Policy 2.75, University Advancement-Gift Income, NMSU Endowments, NMSU Foundation, Inc.

RPM 18.01
Naming University Assets

Policy Details

Responsible Administrator: President
Scope: NMSU System
Last Updated:

A. Applicability

This policy applies to the naming, renaming, and removal of names from University facilities and other physical assets, including buildings and structures, interior and exterior spaces, landscapes, roads, fields and other outdoor areas; collections and other portable assets; endowed chairs and professorships; academic and administrative units; schools, colleges, departments, institutes and centers; programs; and other University entities or assets for which honorary or philanthropic naming recognition may be appropriate. This policy applies throughout the New Mexico State University (NMSU) System.

B. Policy Statement

New Mexico State University welcomes the opportunity to honor those who have rendered extraordinary service or support to NMSU. Facilities, spaces, endowments, or programs may be named for living or deceased individuals or entities whose accomplishments or generosity advance the academic mission of the University, further the capacity of NMSU to meet its teaching and scholarly objectives, and to serve its community and enhance the growth and reputation of NMSU. A decision to construct or renovate a building, establish a chair, or create a program, is to be taken based on established academic and other operational criteria and approved in keeping with the University's established practices and academic mission.

Naming will be independent of all appointment, admission, and curriculum decisions which the University will continue to make in keeping with its established practices and academic mission. To ensure the appropriateness of the honor, the University will follow the guidelines listed in this policy as it makes decisions on a case-by-case basis regarding naming facilities, spaces, endowments, or programs.

C. University Naming Authority

The authority to name, rename, or remove the name of a university facility, space, endowment, academic or administrative unit, program, or other University asset rests exclusively with the Regents of New Mexico State University (Board).

The Board delegates authority to the President or designee to approve the naming of academic units subordinate to colleges, schools, departments, institutes, and centers in compliance with this policy and university administrative policy. This includes but is not limited to classrooms, conference rooms, auditoriums, small theaters, internal libraries, rooms, hallways, floors, features, tribute markers, portable items, and other enclosed or conditioned spaces within buildings.

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The NMSU Foundation, Inc. is a separate nonprofit organization that supports the University through private philanthropy; however, the Foundation does not possess independent authority to name University assets or otherwise bind the University to a naming commitment. Foundation participation in the naming review process will be advisory and will not constitute University approval of a naming.

No proposed naming may be represented to a donor, prospective donor, honoree, or other person as approved, promised, or final until all approvals required by this policy have been obtained. Any gift agreement or other instrument involving a proposed University naming will expressly state that the naming is subject to University approval in accordance with this policy.

D. Institutional Primacy

Naming recognition is an institutional decision and will not be determined solely by the availability or amount of private financial support. A proposed naming must independently serve the mission, integrity, reputation, and long-term interests of New Mexico State University. The University's determination regarding the appropriateness of a naming will be separate from its determination regarding acceptance of an associated gift.

E. Criteria for Selection of Honorees

Naming a facility, space, endowment, or program for an individual, organization or corporation is one of the highest honors that the University can bestow. This recognition is a lasting and powerful affirmation of the honoree's connection to the University's mission. As such, honorees will have exemplary character, an unqualified reputation for honesty, personal integrity, and the highest standards of personal and professional ethics. Meeting the criteria established in this policy does not create an entitlement to naming recognition. All naming decisions remain within the discretion of the University and will be based upon the University's mission, integrity, reputation, long-term interests, and the circumstances of the proposed recognition.

1. **Extraordinary University Service**

   Honorees who have been employed by the University will have given extraordinary service to the institution in a teaching, research, service, or administrative field with such exceptional distinction that their contributions are widely recognized by their peers, both at the University and elsewhere. The recognition afforded the honoree may also include private financial contributions related to the naming opportunity. Individuals currently employed by the University or currently holding elected public office ordinarily will not be eligible for honorary naming recognition.

   This restriction includes active or announced candidates for statewide or federal elected and appointed offices. Such naming opportunities will not be considered until at least one year from the end of the individual’s NMSU employment, or one year after the individual has announced or filed or leaves public office to be considered for recognition by a naming of a property (asset) or program. NMSU will not advertise, publicize, or promote a proposed gift, including donations in the form of a grant, of anyone who has announced or filed for statewide or federal elected office until after the election is concluded. An exception may be considered only under the following circumstances and must be specifically approved by the Board of Regents:

   a. The individual is no longer living;

b. The philanthropic giving warrants some form of recognition;
c. Another unrelated person or entity proposes a gift and requests the naming in honor of the individual or entity; or
d. Extenuating circumstances

2. Private Financial Support

Individuals, corporations, foundations, and other organizations may be considered for philanthropic naming recognition in connection with significant private financial support benefiting the University. A naming associated with private financial support will be considered in accordance with this policy and the approval process contained herein, as well as any other applicable University policies.

A revocable bequest, estate expectancy, or other future gift that is not irrevocably committed ordinarily will not serve as the sole basis for naming recognition during the donor's lifetime.

The following will ordinarily constitute the minimum philanthropic commitment associated with the specified naming opportunity. These amounts are presumptive standards and do not create an entitlement to naming. An exception may be approved by the official having approval authority for the naming upon a documented recommendation from the University Naming Committee (Committee) explaining the institutional basis for the exception:

a. New facilities and major additions - fifty percent (50%) of total costs or three million dollars ($3,000,000), whichever is greater.
b. Renovation of facilities - seventy-five percent (75%) of the cost of renovating a facility.
c. Existing facilities without renovation - seventy-five percent (75%) of the fair market value of the facility.
d. Portable items - donation of the collection or at least fifty percent (50%) of the value of the collection.
e. Tribute markers - fifty percent (50%) of the cost or value of associated items (e.g., trees, gardens).
f. Endowed chairs and professorships - full funding of the endowment.
g. Academic and administrative units, programs, centers, institutes, schools, colleges, and other programmatic entities - determined on a case-by-case basis based upon the prominence, operating scale, anticipated duration, strategic importance, and financial requirements of the entity.

F. Naming Review and Approval

Since naming facilities, spaces, endowments, and programs has a long-term impact on the University, all proposed namings, renamings, and removals of names subject to this policy will undergo institutional review before approval.

The President will establish a University Naming Committee to review proposed naming opportunities and naming requests in accordance with this policy and implementing administrative procedures. The Committee will evaluate the appropriateness of the proposed recognition; the qualifications and reputation of the proposed honoree; institutional and reputational considerations; the adequacy of any associated philanthropic commitment; consistency with the University's priorities and policies; and other factors relevant to the University's long-term interests.

The Committee will make a recommendation to the University official or the Board of Regents having approval authority under this policy. Committee review does not itself constitute approval of a naming.

For proposed namings associated with private financial support, the NMSU Foundation, Inc. will coordinate with the University in developing the naming proposal and may provide information and recommendations concerning the proposed gift, donor intent, valuation, gift terms, and donor stewardship.

G. Advance Review of Philanthropic Naming Opportunities

Before a University representative or the NMSU Foundation, Inc. makes a naming opportunity part of a formal solicitation, gift proposal, gift agreement, or other commitment to a prospective donor, the proposed naming opportunity and applicable financial parameters will be reviewed through the process established in the University's administrative procedures.

Such preliminary review authorizes discussion of the naming opportunity but does not constitute approval of a specific honoree or final naming.

Information concerning proposed namings will be treated as confidential to the extent permitted by law until all required approvals have been obtained and the University determines that public announcement is appropriate.

H. Approval Authority

1. Board of Regents Approval: The following namings require approval by the Board of Regents upon recommendation of the President:

a. Entire buildings and structures;
b. Major additions, wings, floors, or other prominent portions of buildings or facilities when the naming would reasonably be understood as identifying a significant component of the facility;
c. Exterior facilities and spaces, including fields, plazas, courtyards, gardens, roads, prominent landscapes, and similar physical assets;
d. Colleges, schools, departments, institutes, centers, and other major academic or administrative organizational entities;
e. Endowed chairs and professorships;
f. Naming of University assets for a current University employee or current elected public official under the exceptional-circumstances provision of this policy;
g. Renaming or removal of any name previously approved by the Board of Regents; and
h. Any other naming that the President determines, because of its prominence, sensitivity, institutional significance, or potential long-term impact, should be submitted to the Board of Regents.

2. Presidential Approval: Except for matters reserved to the Board of Regents, the President may approve:

a. Interior rooms and subordinate spaces, including classrooms, laboratories, conference rooms, lounges, suites, and similar spaces;

b. Collections and other portable assets;
c. Tribute markers, plaques, benches, trees, and similar commemorative recognition;
d. Programs and other entities not requiring Board of Regents approval; and
e. Other naming matters delegated by the Board of Regents.

The President may delegate approval authority for specified categories of subordinate naming opportunities through administrative procedures. The President may, at the President's discretion, refer any proposed naming to the Board of Regents for approval.

The Board of Regents retains ultimate authority over the naming of University assets and may require Board review and approval of any proposed naming not specifically addressed by this policy or otherwise delegated by the Board.

I. Duration, Modification, and Removal of Names

Naming recognition for an individual ordinarily will remain for the useful life of the facility, space, endowment, program, or other named entity, subject to the provisions of this policy.

Naming recognition for a corporation, organization, or other commercial entity will be for a defined term established at the time of approval and, when associated with a gift, reflected in the applicable written agreement.

A naming does not create a permanent property interest or contractual right except to the extent expressly provided in a written agreement approved by the University.

The University may modify, relocate, discontinue, or remove a naming when:

1. the named facility, space, program, unit, or other entity is demolished, substantially renovated, relocated, redesignated, merged, reorganized, discontinued, or otherwise materially changed;
2. the terms or financial commitments associated with the naming have not been fulfilled;
3. continuation of the naming would be inconsistent with applicable law or University policy;
4. credible information concerning an honoree's conduct, reputation, image, or circumstances arises such that continued association with the name may materially adversely affect the University's mission, integrity, reputation, or long-term interests; or
5. other extraordinary circumstances warrant reconsideration of the naming.

Except where an approved agreement provides otherwise, modification or removal of a name will require approval by the same authority that approved the original naming, or by a higher approving authority. The University will consider applicable contractual obligations, donor intent, historical context, and institutional interests before taking such action.

Naming of a facility, space, endowment, or program does not preclude additional subordinate naming opportunities within it, provided such additional namings are consistent with this policy.

J. Official Record

The University will maintain an official record of approved namings, renamings, and removals of names, including the approving authority, date of approval, duration of recognition when applicable, and other information required by administrative procedures. The President will designate the University office responsible for maintaining the official naming record.

K. Implementation Procedures

The President will establish administrative policies and procedures necessary to implement this Regents policy, including procedures governing:

1. submission and preliminary review of naming opportunities;
2. composition and operation of the University Naming Committee;
3. coordination with the NMSU Foundation, Inc. concerning philanthropic naming opportunities;
4. due diligence and review of prospective honorees;
5. valuation and documentation of philanthropic commitments associated with naming;
6. approval routing and documentation;
7. gift agreement requirements;
8. duration and renewal of term-limited namings;
9. signage, recognition, and implementation standards;
10. renaming and removal of names; and
11. maintenance of official naming records.

The President will appoint the University Naming Committee and may designate administrative responsibility for supporting the Committee and administering this policy.

L. Prospective Application

This policy will apply prospectively. Naming agreements and official namings in effect before the effective date of this policy will remain subject to their existing terms; however, subsequent renewal, extension, modification, renaming, or removal will be governed by this policy to the extent permitted by applicable agreements and law.

Related

Cross-Reference:

RPM 18.00
ARP 18.05 - Honorary Degree Awards
ARP 18.10 - Namings and Other Honorific Recognition
ARP 18.20 - University Advancement – Gift Income, NMSU Endowments, NMSU Foundation, Inc.

Revision History:
10/01/2026 Adopted

Next Cyclic Review:

Board of Regents Meeting
Meeting Date: October 1, 2026
Agenda Item Cover Page

Agenda Item # IX.I

☐ Action Item
☒ Consent Item
☐ Informational Item

Presented By:

Allen Bottorff
VP for Admin. & Finance

Agenda Item:

Requests or amendment to RPM 12.00 to conform with statutory changes

Requested Action of the Board of Regents:

Approval of amendment to RPM 12.0 and its appendix to reflect updated statutory approval thresholds

Executive Summary:
A request for approval of amendment to RPM 12.00, Real Estate, Capital Improvements and Physical Resources, to accurately reflect statutory updates to approval thresholds, as well as updating the corresponding appendix.
References:
Proposed policy and appendix drafts

Prior Approvals:

The proposed drafts are recommended by the VP for Finance & Admin and the Office of General Counsel to the Board to update the approval thresholds consistent with changes in the law.
Agenda Item Approved By:

Each office may determine required signatures (if any). All items should be routed through the President's Office, University General Counsel, or the Secretary of NMDA as appropriate.

Lisa Henderson
_____ 09/23/2026
Lisa Henderson Date
General Counsel and Chief Legal Officer

12.00 Real Estate, Capital Improvements and ~~other~~ Other Physical Resources

rpm.nmsu.edu/title-12/12-00.html

Policy Details

Responsible Administrator: President
Scope: NMSU System
Last Updated: 10/~~26/2018~~01/2026

A. Policy Statement

NMSU is dedicated to the responsible stewardship of its extensive physical resources including real estate, water rights, buildings, other capital improvements, and a wide variety of personal property including equipment and materials. Legal title to all physical assets, real and personal, is vested in the Board of Regents as the body corporate (NMSA 1978 §§ 21-3-4 et seq.), without regard to the academic or administrative entity that occupies or otherwise uses the asset. NMSU shall preserve adequate land holdings and water rights to meet all current and foreseeable academic and support needs. NMSU shall seek to enhance and maximize the productivity of those assets which exceed the current needs of university operations in a prudent manner that is designed to provide as much benefit to the university as feasible.

B. Reservation of Authority

The Regents are responsible for ensuring the efficient and appropriate acquisition, use, maintenance, and disposition of the University's physical resources. **Toward that end, each of the following actions or events require approval of the Regents**:

1. The purchase, acquisition, sale, lease, encumbrance or mortgage of real estate or water rights.
2. Any transaction which would permanently affect NMSU's rights in real estate or water rights.
3. Any capital project which results in the addition of building square footage, whether from the construction of new facilities or addition to existing facilities or purchase of portable structures.
4. Any proposal to issue bonds for capital improvements.
5. Any alteration or site improvement costing over $~~300,000~~500,000.
6. Any demolition of all or any portion of an existing building.
7. Any increase of more than 10% of the budget or reduction of more than 10% in the gross square footage of an approved capital project.
8. Proposals for the use of any funds derived from the sale, lease or transfer of real estate interests or water rights.
9. Any proposal for disposition of obsolete, worn-out or unusable tangible personal property on the university capital asset list.
10. The adoption of campus master plans for each campus.

Note: State Law requires certain approvals from and notifications to state agencies for certain transactions relating to real estate and capital improvements. **Appendix – RPM 12.00-A** *provides a summary of these legal requirements.*

C. Rulemaking Authorization

The Regents of New Mexico State University authorize the President to formulate and amend the Administrative Rules and Procedures (Rules) addressing the management of the university's real estate, water rights, capital improvement projects, construction projects, campus space and use planning, maintenance and repair of university facilities and grounds, equipment and supply inventory. Such Rules shall be consistent with this policy.

D. Delegation of Authority

Notwithstanding the reservation of authority set forth in section B above, the Board of Regents delegates authority and responsibility for reviewing, approving and executing the following types of transactions to the President or designee:

1. Real estate transactions involving a term of less than ten (10) years, including any options to extend;
2. Real estate transactions which involve a total university cost or liability (excluding operating expenses) of no more than $100,000 per year; and
3. Real estate easements which grant a specific, limited use of real property for a term not to exceed ten (10) years. Such uses shall include agreements relating to access, utilities installations, data/telecommunications facilities, rights of way, ingress, egress, sanitary sewers, pipelines and drainage.

E. Repeal of Related Policies

By previous action of the Board of Regents on October 21, 2015, the contents of the former NMSU Policy Manual were replicated in the Administrative Rules and Procedures of NMSU (the ARP) and remain in full force and effect. Upon adoption of this policy, the remaining policies in Title 9 of the Regents Policy Manual are repealed from the Regents Policy Manual, but remain in effect in the ARP until amended or repealed.

Related

Cross-Reference:

~~ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure~~ ARP Chapter 12 | Physical Asset Management

ARP 12.30 | Capital Projects

ARP 12.90 | NMSU Real Estate

Appendix RPM 12.00-A | Legally Required Approvals and Notifications for Certain Real Estate and Capital Improvement Transactions

Revision History:

10/01/2026 Policy amended by the Board of Regents
Recompiled 2017, formerly Policy 9.00
03/16/2016 Policy adopted by Board of Regents

Appendix – RPM 12.00-A – Legally Required Approvals and Notifications for Certain Real Estate and Capital Improvement Transactions

Policy Details

Responsible Administrator: University General Counsel
Scope: NMSU System
Last Updated: ~~10/21/2018~~10/01/2026

Legally Required Approvals and Notifications for Certain Real Estate and Capital Improvement Transactions by State Universities in NM

~~Legally Required Approvals and Notifications for Certain Real Estate and Capital Improvement Transactions by State Universities in NM~~		
Transaction Type	**Higher Ed Department (HED)**	**State Board of Finance (SBOF)**
Purchases of Real Property	HED Approval req'd NMAC 5.3.10.8	SBOF a~~A~~pproval req'd NMSA 21-1-21; NMAC 2.70.4.8
Projects adding square footage (including~~-~~ construction or long-term lease of a new facility, building addition, or purchase of portable buildings~~portables or long term lease~~)	HED Approval req'd NMAC 5.3.10.8	SBOF a~~A~~pproval req'd only if "construction of new building" NMSA 21-1-21; NMAC 2.70.4.8
Project involving Issuance of Bonds	HED Approval req'd NMAC 5.3.10.8	SBOF a~~A~~pproval req'd if bond issuance requires~~'d~~ SBOF approval. NMAC 2.70.4.8; see also NMAC 2.61.5.3(C)

~~Legally Required Approvals and Notifications for Certain Real Estate and Capital Improvement Transactions by State Universities in NM~~		
* Major remodel, major renovation, alterations, site improvements, or other major projects~~Major Projects: remodeling, alterations, repairs, site improvements or non-building structure.~~	See thresholds below NMAC 5.3.10.8(4)(b) and 5.3.10.7(C), (F) and (G)	See thresholds below. ~~;~~ NMSA 21-1-21; NMAC 2.70.4.7-8
With cost over $~~300K~~950K	~~NMAC 5.3.10.8~~HED staff approval req'd NMAC 5.3.10.8(A), (C)(4)(b)(i)	SBOF a~~A~~pproval req'd if project is funded exclusively by sources other than legislative appropriations NMAC 2.70.4.7(E)(4)~~if funded exclusively by sources other than legislation NMAC 2.70.4.8~~
With cost over $~~500K~~1.6 million	HED Capital Outlay Committee a~~A~~pproval req'd NMAC 5.3.10.8(A), (C)(4)(b)(ii) ~~NMAC 5.3.10.8~~	~~See above~~N/~~A~~SBOF approval is required above $950K. See above.
With cost over $2.4 million	N/A	SBOF approval req'd if project is funded, in whole or in part, by capital outlay legislation signed into law NMAC 2.70.4.7(E)(2)
~~With cost over $750K~~	~~See above~~	~~SBOF if project is funded by capital outlay legislation NMAC 2.70.4.8~~

~~Legally Required Approvals and Notifications for Certain Real Estate and Capital Improvement Transactions by State Universities in NM~~		
Demolition of existing building	HED s~~S~~taff a~~A~~pproval NMAC 5.3.10.8(C)(5)	Not req'd ~~(~~unless demolition is part of a larger project requiring SBOF approval ~~)~~ NMAC 2.70.4.8(A)(4)
Sale or trade of real property with current ~~/~~ appraised value > $100K	~~Only~~ Noti~~cefication~~ to HED s~~S~~taff NMAC 5.3.10.13	Not req'd under NMAC 2.70.4.8 ~~solely~~ because ~~of the sale or trade~~only the purchase of land requires SBOF approval.~~.~~

*The dollar cost amounts listed are for institutions with an annual FTE > 1500. This applies to the entire NMSU system. Dollar thresholds are based on total project cost and are separate from NMSU's internal Board of Regents approval thresholds. Projects may not be artificially segmented or phased to avoid HED or State Board of Finance review. Applicable state thresholds vary by institutional FTE and, for State Board of Finance review, by source of project funding.

Board of Regents Meeting
Meeting Date: October 1, 2026
Agenda Item Cover Page

Agenda Item # __X.A__

☒ Action Item
☐ Consent Item
☐ Informational Item

Presented By:
Martha Desmond, Ph.D.
Academic Department Head, Fishery and Wildlife Sciences

Zachary Klein, Ph.D.
Associate Professor, Fishery and Wildlife Sciences

Agenda Item:

Wildlife Law Enforcement – Bachelor of Science in Fish, Wildlife and Conservation Ecology

Requested Action of the Board of Regents:

Approval of the Wildlife Law Enforcement – Bachelor of Science in Fish, Wildlife and Conservation Ecology program proposal as presented.

Executive Summary:

The Wildlife Law Enforcement – Bachelor of Science in Fish, Wildlife and Conservation Ecology is a proposed undergraduate program designed to prepare students for careers in wildlife and natural resource law enforcement. The program specifically addresses enforcement of wildlife and natural resource laws for stewardship and protection of natural resources.

The multidisciplinary curriculum is collaborative with Criminal Justice and Philosophy to provide students with the scientific, legal, and professional skills needed to work with state, federal, tribal, and local agencies responsible for protecting wildlife and natural resources. The program is proposed for implementation in the 2027-2028 catalog year.

The proposal was developed in response to workforce shortages within the New Mexico Department of Wildlife and growing demand for professionals with expertise in both wildlife management and law enforcement. The department reports that some students have sought other programs that offer a stronger law enforcement focus, creating a need for this academic pathway at NMSU.

The curriculum integrates coursework from Fish, Wildlife and Conservation Ecology, Criminal Justice, and Philosophy, including wildlife law and policy, criminal law, environmental ethics, wildlife management, and an internship or professional experience component. Graduates will be prepared for employment with organizations such as the New Mexico Department of Wildlife, U.S. Fish and Wildlife Service, Bureau of Land Management, U.S. Forest Service, Bureau of Indian Affairs, and Tribal and Pueblo governments.

Western New Mexico University currently offers the only similar program in the state; however, persistent workforce needs justify an additional program. The program is projected to enroll approximately 10 new students annually and has established goals of 78% annual retention, 70% graduation, and 70% job placement rates. The program will be implemented using existing faculty, facilities, library resources, and equipment, with no additional personnel or major resource investments required.

Overall, the proposal represents a low-cost expansion of existing academic resources that aligns with workforce needs in wildlife law enforcement while providing students with a specialized pathway into conservation and public service careers.

References:

See attached presentation, proposals, and supplemental materials.

Prior Approvals:

The Wildlife Law Enforcement – Bachelor of Science in Fish, Wildlife and Conservation Ecology proposal has achieved prior approvals (PIM approval path) including:
Student Records Office (Gabrielle Martinez) - July 1, 2026
AG Academic Dean (Robert Torres) - July 14, 2026
University Program Approval Committee (UPAC) (Joe Lakey) - August 27, 2026
Office of the Provost (James McAteer) - August 27, 2026
Office of the President (Valerio Ferme) - August 27, 2026
Regents Student Success Committee – September 10, 2026

Department of Fish, Wildlife and Conservation Ecology

Proposed B.S. in Wildlife Law Enforcement

Martha Desmond and Zach Klein

Agricultural, Consumer and Environmental Sciences



BE BOLD. Shape the Future.®
New Mexico State University

1063

Wildlife Law Enforcement

A multidisciplinary degree within Fish, Wildlife, and Conservation Ecology (FWCE)

- Specifically address enforcement of wildlife and natural resource laws for stewardship and protection of natural resources
- Collaborative with NMSU Criminal Justice and Philosophy

Careers in Wildlife & Fisheries Ecology

- State Wildlife Agencies (120 positions in NM)
- Federal Agencies (1,500-2,000 positions mainly in west)
  - ➢US Fish & Wildlife Service
  - ➢USDA Forest Service
  - ➢National Park Service
  - ➢Bureau of Land Management
  - ➢Bureau of Indian Affairs
- Tribes and Pueblos (40-60 positions in NM)

Income

- WICHE Market is higher than the national average
  - ➢Entry Salary: $52,000 state level
  - ➢Median Salary: $68,000 vs > $100,000 federal level



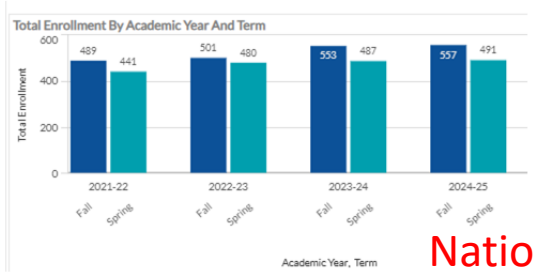
Overview of CIP 03.208 (Classification of Instructional Programs)

2023 Completions

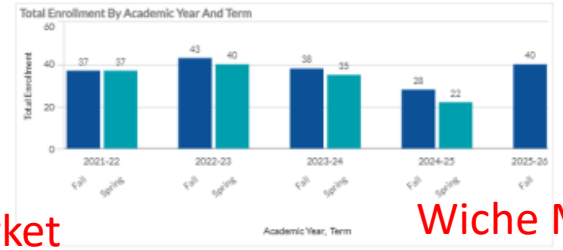
- Above average completions in this CIP code for National Markets and WICHE Markets

2023 Enrollment

- Student enrollment trends are stable across WICHE and National Markets



National Market



Wiche Market

Program Growth

- Student demand and enrollment are above average compared to other CIP codes in WICHE market
- Number of programs is low for the national (6 institutions reported graduates) and WICHE Markets (1 institution reported graduates).

Coursework and Relevant Support

Major Coursework includes

- 40-45 credits in FWCE
- 18 credits in Criminal Justice
- 12 credits in Philosophy

Worked collaboratively with relevant NMSU departments, WNMU and stakeholders

- Departments of Criminal Justice and Philosophy (see letters of support)
- Collaborate with WNMU where a similar program exists (see letter of support)
- Program development and support from New Mexico Department of Wildlife, US Fish and Wildlife Service and other relevant stakeholders (see letters of support)

Importance to New Mexico

- Strong state need
  - Current staffing shortages exist within NM Department of Wildlife (as many as 1/5 of 120 positions)
  - 40-60 positions across tribes and pueblos in New Mexico
  - Strong need across NM (and western) public lands
- Meets specific needs of New Mexico Department of Wildlife and other state, federal and tribal agencies
- Broad stakeholder support, expressing the need for this program
- Collaborate with other NMSU departments and WNMU
  - Increases access and strengthens the talent pipeline to meet regional workforce needs

Faculty, staff and existing resources

- Located in Knox Hall
- NMSU Wildlife Museum
- Faculty offices & labs
- Strong record of undergraduate student mentorship
- Two student organizations



Faculty Resources

- 9 regular faculty (Research/Instruction)
- 3 USGS Cooperative Research Unit Senior Scientists (graduate research/instruction)
- 2 Research Scientists

Strong undergraduate program (enrollment increased by 13% fall 2026)

Successful faculty that are dedicated to undergraduate student mentorship

Projected Costs

- No additional costs needed for the program
  - Faculty are in place for the program
  - Program will build on existing courses
  - Library resources are in place for the program
- Once established an annual cohort of 10 new students will bring over $200,000/year in tuition revenue

Summary

- A strong need exists for this program in New Mexico
- Strong stakeholder support
- Augments existing program in NM (WNMU)
- Provides students with a strong interdisciplinary background, important for this degree
- Few programs exist nationally and in the WICHE market
- Will not require additional financial support

1122: WILDLIFE LAW ENFORCEMENT - BACHELOR OF SCIENCE IN FISH, WILDLIFE AND CONSERVATION ECOLOGY

In Workflow

1. Student Records Office - Programs (gdmart@nmsu.edu)
2. AG Academic Dean (rmt@nmsu.edu)
3. UPAC - Chair (jlakey@nmsu.edu)
4. Provost (mcateer@nmsu.edu; cecimh@nmsu.edu; bull@nmsu.edu)
5. President (jbannist@nmsu.edu; myniguez@nmsu.edu; ferm4363@nmsu.edu)
6. Board of Regents (cavotta@nmsu.edu)
7. Student Records Office - HED (gdmart@nmsu.edu)
8. Student Records Office - CIP (gdmart@nmsu.edu)
9. MA HLC (cecimh@nmsu.edu)
10. Student Records Office (gdmart@nmsu.edu)

Approval Path

1. Wed, 01 Jul 2026 17:39:17 GMT
   Gabrielle Martinez (gdmart): Approved for Student Records Office - Programs
2. Tue, 14 Jul 2026 22:04:14 GMT
   Robert Torres (rmt): Approved for AG Academic Dean
3. Thu, 27 Aug 2026 15:01:04 GMT
   Joe Lakey (jlakey): Approved for UPAC - Chair
4. Thu, 27 Aug 2026 15:31:39 GMT
   James Mcateer (mcateer): Approved for Provost
5. Thu, 27 Aug 2026 17:42:27 GMT
   Valerio Ferme (ferm4363): Approved for President

New Program Proposal

Date Submitted: Tue, 30 Jun 2026 18:52:30 GMT

Viewing: 1122 : Wildlife Law Enforcement - Bachelor of Science in Fish, Wildlife and Conservation Ecology

Last edit: Thu, 27 Aug 2026 15:00:50 GMT

Changes proposed by: Martha Desmond (mdesmond)

Submission Information

The Degree Type will factor into the level and the submissions that must occur for HED and HLC.
• Community College Types: Applied Associate Degree, Associate Degree, Certificate, Concentration
• Main/Global Campus Undergrad Types: Bachelor's Degree, Concentration, Minor
• Main/Global Campus Graduate Types: Master's Degree, Doctoral Degree, Certificate, Concentration, Minor

Degree Type

Bachelor's Degree

The Degree Title dropdown has all existing degree titles in Banner, if you do not see the one you are looking for you will select "Other" then in the New Degree Title box you will type out the official title of the degree (as you would want it to appear on a students record, transcript, and/or diploma).

Degree Title

Bachelor of Science in Fish, Wildlife, and Conservation Ecology

Academic Level

Undergraduate

The Catalog Title will be what is displayed in the catalog page. The standard format is Major (Concentration) - Degree Title. (I.e., Mathematics (Secondary Education) - Bachelor of Science. Note: If there is no concentration you would just list the Major - Degree.

Catalog Title

Wildlife Law Enforcement - Bachelor of Science in Fish, Wildlife and Conservation Ecology

College
Agricult/Consumer/Environ Sci

Campus
Main Campus

Department
Fish,Wildlife,Conserv Ecology

Effective Catalog
2027-2028

If opting for a Global program, specify "Global Campus" under campus type. You must have a Program Proposal on file with Global Campus prior to submission of a new Global program. Contact Global Campus for more information.

Program Teaching Modality
Traditional-Face to Face

CIP Code
030208 - Environmental/Natural Resources Law Enforcement and Protective Services.

Normal or typical length of time for students to complete the program (in years)
4

Curriculum Information

Program Learning Outcomes

	Learning Outcomes
Outcome 1	Students are able to evaluate ecological concepts and can apply this knowledge to real world issues in the field of fish and wildlife conservation and management.
Outcome 2	Students can apply ethical judgement and interpretation of wildlife laws to wildlife law enforcement situations.
Outcome 3	Students demonstrate proficiency in oral and written communication with diverse audiences and can apply that knowledge to problem solving.
Outcome 4	Students can identify the role of law, policy, and human dimensions in fish and wildlife management and apply these theories and methods to real world fish and wildlife topics.
Outcome 5	Students can apply wildlife law and policy to inform law enforcement decision making
Outcome 6	Students can perform basic data analysis and interpret results to draw meaningful conclusions

List of academic departments/units and or institutions involved in the delivery of courses

Department/Unit
FWCE, CJUS, PHIL

The Course Requirements, need to be in the standard format for the catalog because this piece of the form will be imported directly onto the catalog page. See the Student Records Website for a guide. The total number of credits at the bottom of the course list will be the "official" total for the degree. Please make sure it adds up correctly.

Course Requirements

Introduction

Prefix	Title	Credits
General Education		
Area I: Communications		
English Composition - Level 1		
ENGL 1110G	Composition I	4
or ENGL 1110H	Composition I Honors	
English Composition - Level 2		
Select one from the following:		3
ENGL 2210G	Professional and Technical Communication	3
or ENGL 2210H	Professional and Technical Communication	
ENGL 2215G	Advanced Technical and Professional Communication	3
Oral Communication		
Select one from the following:		3

ACOM 1130G	Effective Leadership and Communication in Agriculture	3
COMM 1115G	Introduction to Communication	3
or HNRS 2175G	Introduction to Communication Honors	
COMM 1130G	Public Speaking	3
AXED 2120G	Effective Leadership and Communication in Agriculture	3
Area II: Mathematics		*3-4*
MATH 1220G	College Algebra	3
MATH 1511G	Calculus and Analytic Geometry I	4
Area III/IV: Laboratory Sciences and Social/Behavioral Sciences		
CJUS 1110G	Introduction to Criminal Justice	3
ECON 2110G	Macroeconomic Principles	3
or ECON 2120G	Principles of Microeconomics Honors	
BIOL 2610G & BIOL 2610L	Principles of Biology: Biodiversity, Ecology, and Evolution and Principles of Biology: Biodiversity, Ecology, and Evolution Laboratory	4
Area V: Humanities [1]		*3*
Area VI: Creative and Fine Arts [1]		*3*
General Education Elective		
AGRO 1110G	Introduction to Plant Science (Lecture & Lab)	4
or HORT 1115G	Introductory Plant Science	
Viewing a Wider World [2]		*6*
Core Requirements		
A ST 311	Statistical Applications	3
FWCE 1110	Introduction to Natural Resources Management (every fall)	4
FWCE 1111	Wildlife and Fisheries Freshmen Seminar (every fall)	1
FWCE 2110	Principles of Fish and Wildlife Management (every spring)	3
FWCE 301	Wildlife Ecology (every fall)	3
or BIOL 301	Principles of Ecology	
FWCE 325	Human Dimensions of Fish and Wildlife (every fall)	3
FWCE 328	Wildlife of the Southwest (every spring)	3
FWCE 391	Internship	1-3
or CJUS 393	Internship in Criminal Justice	
FWCE 393	Professional Experience and Communication (every fall)	3
FWCE 402	Seminar in Natural Resource Management (every spring)	1
FWCE 447	Wildlife Law and Policy (every spring)	3
Criminal Justice Requirements		
CJUS 1120	Criminal Law	3
Select five of the following:		15
CJUS 306	Criminal Procedural Law	3
CJUS 307	Law of Evidence	3
CJUS 321	Criminal Investigation and Intelligence	3
CJUS 399	New Mexico Law	3
or POLS 399	New Mexico Law	
CJUS 410	Criminal Justice Administrative Systems	3
CJUS 414	Race, Crime and Justice	3
CJUS 424	Forensic Law	3
CJUS 436	Courts and Sentencing	3
CJUS 456	Police and the Community	3
PSYC 330	Psychology and the Law	3
Philosophy and Ethics Requirements		
Select four of the following:		12
PHIL 1120G	Logic, Reasoning, & Critical Thinking	3
PHIL 1145G	Philosophy, Law, and Ethics	3
PHIL 2110G	Introduction to Ethics	3
PHIL 2230G	Philosophical Thought	3
PHIL 322	Environmental Ethics	3
PHIL 376	Philosophy of Law	3
Management and Techniques Requirements		
Select five of the following:		15-20
BIOL 322	Zoology	3
FWCE 330	Natural History of the Vertebrates (every spring)	4
FWCE 355	Wildlife Management and Analysis (spring odd years)	4
FWCE 357	Fisheries Management and A (spring even years)	4

FWCE 409	Introduction to Population Ecology (every spring)	3
FWCE 425	Evidence-Based Conservation and Management (fall odd years)	3
FWCE 437	Wildlife Damage Management (spring even years)	3
FWCE 442	Wildlife Disease Ecology and Management (fall odd years)	4
FWCE 457 or BIOL 455	Ecological Biometry (every fall) Biometry	3
FWCE 459	Aquatic Ecology (fall even years)	4
FWCE 471	GIS for Natural Resource Scientists (fall)	4
RGSC 318	Watershed Management	3
RGSC 325	Rangeland Restoration Ecology	3
Physical Education Requirements [3]		*2*
Electives to bring the total credits to 120 [4]		**0-6**
Total Credits		**120-122**

1 See General Education (https://catalogs.nmsu.edu/nmsu/general-education-viewing-wider-world/) section of the catalog for a full list of courses.

2 See Viewing a Wider World (https://catalogs.nmsu.edu/nmsu/general-education-viewing-wider-world/#viewingawiderworldtext) section of the catalog for a full list of courses.
Three credits can be taken inside the College of ACES, but three credits must also be taken outside the College of ACES or 9 credits can be taken within a single department (e.g. Biology) that is outside the College of Aces.

3 See the PHED (https://catalogs.nmsu.edu/grants/courses-descriptions/phed/) section of the catalog for a full list of courses. No more than 6 credits of Physical Education classes will count towards your degree.

4 Elective credit may vary based on General Education course selection, prerequisites, dual credit, AP credit, double majors, and/or minor coursework. The amount indicated in the requirements list is the amount needed to bring the total to 120 credits and may appear in variable form based on the degree. However students may end up needing to complete more or less on a case-by-case basis and students should discuss elective requirements with their advisor.

Additional Electives
Take additional credits so the total adds up to at least 120 credits including 55 credits 300- and 400-level classes.
Students are encouraged to pursue a minor course of study with a department of their choosing.

Compatible minors include, but are not limited to:

- animal science,
- biology,
- chemistry,
- environmental science,
- forensic sciences,
- geography,
- journalism,
- management,
- and range science.

Notes:

1. Maximum of two grades of 'D' in FWCE classes will count towards a student's degree.

The Road Map, need to be in the standard format for the catalog because this piece of the form will be imported directly onto the catalog page. See the Student Records Website for a guide. All courses and the total number of credits at the bottom of the roadmap should match the Course Requirements list.

Road Map

Freshman		
Fall		**Credits**
FWCE 1110	Introduction to Natural Resources Management	4
FWCE 1111	Wildlife and Fisheries Freshmen Seminar	1
ENGL 1110G	Composition I	4
CJUS 1110G	Introduction to Criminal Justice	3
Area V: Humanities		3
PHED Requirement		1
	Credits	**16**
Spring		
FWCE 2110	Principles of Fish and Wildlife Management	3
BIOL 2610G	Principles of Biology: Biodiversity, Ecology, and Evolution	3
BIOL 2610L	Principles of Biology: Biodiversity, Ecology, and Evolution Laboratory	1
AXED 2120G or COMM 1130G	Effective Leadership and Communication in Agriculture or Public Speaking	3

CJUS 1120	Criminal Law	3
PHED Requirement		1
	Credits	**14**
Sophomore		
Fall		
FWCE 301	Wildlife Ecology	3
ENGL 2210G	Professional and Technical Communication	3
ECON 2110G or ECON 2120G	Macroeconomic Principles or Principles of Microeconomics Honors	3
AGRO 1110G	Introduction to Plant Science (Lecture & Lab)	4
PHED Requirement		1
	Credits	**14**
Spring		
FWCE 328	Wildlife of the Southwest	3
MATH 1220G or MATH 1511G	College Algebra or Calculus and Analytic Geometry I	3
Criminal Justice Requirement		3
Philosophy Requirement		3
Area VI: Creative and Fine Arts		3
	Credits	**15**
Junior		
Fall		
FWCE 325	Human Dimensions of Fish and Wildlife	3
FWCE 393	Professional Experience and Communication	3
FWCE 391 or CJUS 393	Internship or Internship in Criminal Justice	3
Criminal Justice Requirement		3
Philosophy Requirement		3
FWCE Management and Techniques		3
	Credits	**18**
Spring		
FWCE 447	Wildlife Law and Policy	3
A ST 311	Statistical Applications	3
Criminal Justice Requirement		3
Philosophy Requirement		3
FWCE Management and Techniques		3
	Credits	**15**
Senior		
Fall		
FWCE Management and Techniques		6
Viewing the Wider World		3
Criminal Justice Requirement		3
Philosophy Requirement		3
	Credits	**15**
Spring		
FWCE 402	Seminar in Natural Resource Management	1
FWCE Management and Techniques		6
Criminal Justice Requirement		3
Philosophy Requirement		3
Elective course (if needed)		0
	Credits	**13**
	Total Credits	**120**

The admission requirements are needed if the program has a specialized admission process that exceeds the campus requirements for either the Undergraduate or Graduate admission standards.
• For graduate programs, the Graduate School asks for the following information (Provide a summary of the documents and specific information each student will need to provide to be considered for the program): Description, Statement of Purpose/Letter of Interest; Specialty Letter of Interest; Resume; Writing Sample; GRE; GMAT; Special Questions (if yes, what questions need to be answered); Letters of Recommendation (how many are required); NMSU Faculty Representative (if yes, how many); Foreign Language; WES Evaluation; Special License or Verifications (what license/verification)

Does this program lead to licensure, yes or no?

No

Faculty Members Employed to Teach in the Program

Existing Personnel

Fitsum Abadi Gebreselassie

FTE

1

Course load and courses they will teach in the proposed program

FWCE 409 Introduction to Population Ecology
FWCE 457 Ecological Biometry

Courses taught in other programs currently offered

FWCE 509 Introduction to Population Ecology FWCE 526 Demographic Models and Bayesian Inference in Modern Wildlife Management FWCE 557 Ecological Biometry

Description of academic qualifications

Ph.D. Ecology and Evolution, University of Bern, Switzerland. 2010.
M.S. Applied Statistics & Biostatistics, Hasselt University, Belgium. 2006
M.S. Statistics, Addis Ababa University, Ethiopia. 2003
B.S. Statistics, Addis Ababa University, Ethiopia. 1999

Prior instructional responsibility and other experiences relevant to assigned courses

FWCE 535 Science-Based Decision Making in Wildlife Management: A Quantitative Approach
FWCE 515 Graduate Seminar (Hierarchical Models in Ecological Research)

Existing Personnel

Wiebke Boeing

FTE

1

Course load and courses they will teach in the proposed program

FWCE 391 Internship;
FWCE 393 Professional Experience and Communication;
FWCE 301 Wildlife Ecology;
FWCE 459 Aquatic Ecology

Courses taught in other programs currently offered

FWCE 550 Aquatic Ecology

Description of academic qualifications

Ph.D. Aquatic Ecology, Louisiana State University, 2002
M.S. Hydrobiology, Technische Universität Dresden, Germany, 1996
B.S. Biology, Universität Potsdam, Germany, 1993

Prior instructional responsibility and other experiences relevant to assigned courses

Hon 1115 Journeys of Discovery
WLSC 255 Principles of Natural Resource Management
FWCE 301 Wildlife Ecology
FWCE 402 Seminar in Natural Resource Management
FWCE 448 Problems (25 different classes)
FWCE 450 Special topics (5 different topics)
HORT 450 Special Topics
FWCE 482 Ichthyology
FWCE 515 Graduate Seminar
FWCE 535 Special Topics (5 different topics)
FWCE 548 Graduate problems (13 classes)
FWCE 558, 598, 599
BIOL 600 Doctoral Research
AGRO 697 University Teaching Experience
AGRO 698 Topics in Agronomy (2 different topics)
PLEN 6996 Advanced Topics

BIOL 700 Doctoral Dissertation
AGRO 700 Doctoral Dissertation
ES 700 Doctoral Dissertation

Existing Personnel

Martha Desmond

FTE

1

Course load and courses they will teach in the proposed program

FWCE 111 Wildlife and Fisheries Freshmen seminar
FWCE 402 SEminar in Natural Resources

Courses taught in other programs currently offered

FWCE 510 Wildlife Ecology Teaching Practicum

Description of academic qualifications

Ph.D. Forestry, University of Nebraska Lincoln, 1997
M.S. Wildlife Ecology, University of Nebraska-Lincoln, 1993
B.A. Environmental Science, Wells College, 1985

Prior instructional responsibility and other experiences relevant to assigned courses

FWCE 301 Wildlife Ecology
FWCE 430 Avian Field Ecology
FWCE 445 Systems Ecology in Wildlife Management
FWCE 545 Systems Ecology in Wildlife Management
FWCE 402 Seminar in Natural Resources Management
FWCE 515 Graduate Seminar
FWCE 450 Tropical Field Ecology
FWCE 535 Tropical Field Ecology
FWCE 536 Advanced Avian Ecology
FWCE 450 Field Course in Migration Biology
FWCE 535 Field Course in Migration Biology
FWCE 535 Passive Acoustic Monitoring for Conservation

Existing Personnel

Jennifer Frey

FTE

1

Course load and courses they will teach in the proposed program

FWCE 428 Wildlife of the Southwest
FWCE 337 Wildlife Damage Management

Courses taught in other programs currently offered

FWCE 537 Wildlife Damage Management

Description of academic qualifications

Ph.D. Biology. University of New Mexico, Albuquerque, New Mexico. 1994.
M.S. Biology. Emporia State University, Emporia, Kansas. 1989.
B.S. Biology (emphasis in Zoology). Emporia State University, Emporia, Kansas. 1986

Prior instructional responsibility and other experiences relevant to assigned courses

FWCE 109 Contemporary Issues in Wildlife and Natural Resources Management
FWCE 110 Introduction to Natural Resources Management (DE version)
FWCE 255 Principles of Fish and Wildlife Management;
FWCE 301 Wildlife Ecology
FWCE 450 Management for Fish and Wildlife for Conservation S[illegible];

FWCE 450/535 Museum Methods
FWCE 445/545 Systems Ecology in Wildlife Management and Laboratory
FWCE 535 Advanced Techniques for the Study of Mammalian Diversity
FWCE 450/535 Nongame Wildlife Conservation and Management
FWCE 450/535 The Natural History Museum in Modern Society
FWCE 472 Wildlife Museum Internship
BIO 1650 Wildlife Biology (ENMU)
BIO 1649 Introduction to Wildlife and Fisheries Science (ENMU)
BIO 307 Vertebrate Zoology (ENMU)
BIO 431/531 Mammalogy (ENMU)
BIO 442/542 Ornithology (ENMU)
BIO 405 Wildlife Management (ENMU)
BIO 557 Biogeography (ENMU)
BIO 513 Conservation Biology (ENMU)
BIO 582 Biological Literature (ENMU)

Existing Personnel

Obed Hernández-Gómez

FTE

1

Course load and courses they will teach in the proposed program

FWCE 1110 Introduction to Natural Resources;
FWCE 467 Herpetology;
FWCE 450 Disease Ecology

Courses taught in other programs currently offered

FWCE 567 Herpetology FWCE 542 Disease Ecology FWCE 548 Graduate Problems - Methods in Molecular Ecology

Description of academic qualifications

Ph.D. Purdue University, Department of Forest and Natural Resources, 2017
B.S. Texas Tech University, Department of Biological Sciences, 2010

Prior instructional responsibility and other experiences relevant to assigned courses

FWCE 2110 Principles of Fish and Wildlife Management;
FWCE 548 Graduate Problems - Methods in Molecular Ecology
BIOL 1100 - Cellular and Developmental Biology (lecture)
BIOL 3200/3205 - Advanced Genetics
BIOL 2990, 4990, 4991, 4993 - Research Methodology Series I, II, III, IV
BIOL 1500 - Herpetology
BIOL 3610/3615 - General Microbiology
BIOL 4900/4905 and CHEM 4900/4905 - Computational Biology and Chemistry
ENSC 3200 - Disease Ecology

Existing Personnel

Kelly Jones

FTE

1

Course load and courses they will teach in the proposed program

FWCE 325 Human Dimensions of Wildlife;
FWCE 546 Conservation Social Sciences

Courses taught in other programs currently offered

FWCE 525 Evidence-based Conservation Management

Description of academic qualifications

Ph.D. Forest and Wildlife Ecology, University of Wisconsin-Madison, 2011

M.A. Agricultural and Applied Economics, University of Wisconsin-Madison, 2009
B.S. Biology, Meredith College, 2000

Prior instructional responsibility and other experiences relevant to assigned courses

NR510 Ecosystem Services & Human Well-being (open to all master's and PhD students), Colorado State University
NR562 Ecosystem Services in a Changing World (open to master's students in the Conservation Leadership Program), Colorado State University
NR 581 Evidence-based Conservation (open to all master's and PhD students), Colorado State University

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Existing Personnel

Zachary Klein

FTE

1

Course load and courses they will teach in the proposed program

FWCE 2110 Principles of Fish and Wildlife Management;
FWCE 357 Fish Management and Analysis;
FWCE 482 Ichthyology

Courses taught in other programs currently offered

FWCE 2110 Principles of Fish and Wildlife Management; FWCE 357 Fish Management and Analysis; FWCE 482 IchthyologyFWCE 582 Ichthyology

Description of academic qualifications

Ph.D. Natural Resources, University of Idaho, 2019
M.S. Natural Resources, University of Idaho, 2015
B.S. Biology, Eckerd College, 2008

Prior instructional responsibility and other experiences relevant to assigned courses

FWCE 464 Management of Aquatic and Terrestrial Ecosystems;
ZO 214 -215 Biology of animals and lab
ZO 472/473 & 872/873 Ichthyology and Laboratory
EB 474/475 Fisheries Management and Laboratory

Existing Personnel

Theresa Laverty

FTE

1

Course load and courses they will teach in the proposed program

FWCE 330 Natural History of Vertebrates;
FWCE 355 Wildlife Techniques and Analysis
FWCE 431 Mammalogy

Courses taught in other programs currently offered

FWCE 330 Natural History of Vertebrates; FWCE 355 Wildlife Techniques and Analysis FWCE 431 Mammalogy; FWCE 531 Mammalogy

Description of academic qualifications

Ph.D. Fish, Wildlife and Conservation Biology, Colorado State University, 2019
B.A. Ecology and Evolutionary Biology, Princeton University, 2010

Prior instructional responsibility and other experiences relevant to assigned courses

I taught an Introduction to GitHub workshop at NMSU. Additionally, I served as a teaching assistant for the following courses:
NR 300 Biological Diversity (Colorado State University)
FW 370 Design of Fish and Wildlife Projects (Colorado State University)
WILD 480 The Upshot: Applied Wildlife Management (University of Montana)
BIOO 101N Montana Wildlife (University of Montana)

EEB 380 Ecology and Conservation of African Landscapes (Princeton University)

Existing Personnel
Abigail Lawson

FTE
1

Course load and courses they will teach in the proposed program
NA

Courses taught in other programs currently offered
FWCE 535 Structured decision making in fish and wildlife populations FWCE 535 Model selection and multimodel inference in ecology

Description of academic qualifications
Ph.D. Wildlife and Fisheries Biology, Clemson University, 2019
M.S. Natural Resources and Environmental Sciences, University of Nevada, 2012
B.S. Wildlife, Fish and Conservation Ecology, University of California-Davis, 2007

Prior instructional responsibility and other experiences relevant to assigned courses
ENR 1010: Introduction to Natural Resources
USFWS National Conservation Training Center, Introduction to Structured Decision Making
USFWS National Conservation Training Center, Fundamentals of Structured Decision Making

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Existing Personnel
Brian Millsap

FTE
.75

Course load and courses they will teach in the proposed program
FWCE 447 Wildlife Law and Policy

Courses taught in other programs currently offered
FWCE 547 Wildlife Law and Policy FWCE 526 Demographic Models and Bayesian Inference in Modern Wildlife Management

Description of academic qualifications
Ph.D. Biology, New Mexico State University 2018
M.S. Biology, George Mason University, 1986
B.S. Wildlife Biology, Colorado State University, 1978

Prior instructional responsibility and other experiences relevant to assigned courses
FWCE 535 Special Topics

Existing Personnel
Aaron Young

FTE
1

Course load and courses they will teach in the proposed program
FWCE 301 Wildlife Ecology;
FWCE 430 Avian Field Ecology;
FWCE 471/571 GIS for Natural Resource Managers

Courses taught in other programs currently offered

FWCE 457 Ecological Biometry

Description of academic qualifications

Ph.D. (Fish and Wildlife Sciences), University of Idaho, 2022
M.S. (Biology), University of Nebraska Omaha, 2017
B.S. (Biology), B.S. (Environmental Studies), Western Michigan University, 2004

Prior instructional responsibility and other experiences relevant to assigned courses

NR 101 Exploring Natural Resources;
WLF 220 Principles of Ecology;
WLF 370 Management and Communication of Scientific Data;
WLF 411/511 Wildland Habitat Ecology and Assessment;
ENVS 484 History of Energy
NRS 576 Environmental Project Management and Decision Making;

Existing Personnel

Hyunin Baek (Department of Criminal Justice)

FTE

1.0

Course load and courses they will teach in the proposed program

2/3 course load
CJUS 456 Police and the Community

Courses taught in other programs currently offered

CJUS 301 Advanced Research Methods in CJ; CJUS 302 Crime, Justice, and Society; CJUS 410 Criminal Justice Administrative Systems; CJUS 456 Police and the Community; CJUS 501 Graduate Research Methods in CJ; CJUS 502 Statistics in Criminal Justice; CJUS 581 Community Policing

Description of academic qualifications

Ph.D. in Criminal Justice, University of Louisville, KY, 2011
M.Ed., Human Resource Development, Hanyang University, South Korea, 2009
LL.B., Police Administration, Kyonggi University, South Korea, 2004
LL.B., Corrections, Kyongi University, South Korea, 2004

Prior instructional responsibility and other experiences relevant to assigned courses

Administration experience and Human Resource development

Existing Personnel

Jesse Williams (Department of Criminal Justice)

FTE

1.0

Course load and courses they will teach in the proposed program

4/4 course load
CJUS 1110g Intro to CJ Systems
CJUS 1120 Criminal Law
CJUS 306 Procedural Law
CJUS 321 Criminal Investigations and Intelligence

Courses taught in other programs currently offered

CJUS 1110g Intro to CJ Systems; CJUS 1120 Criminal Law; CJUS 306 Procedural Law; CJUS 307 Law of Evidence; CJUS 321 Criminal Investigations and Intelligence; CJUS 399 New Mexico Law

Description of academic qualifications

Master of Criminal Justice and Master of Public Administration, New Mexico State University, 2015
Leadership related training, School of Police and Staff Command, Northwestern University Center for Public Safety, 2016

Prior instructional responsibility and other experiences relevant to assigned courses

New Mexico State Police Officer, 2003-2023, police instructor (2005-2023),
Instructor at CNM, 2018-2021 including classes on police leadership and administration.

Existing Personnel

Ida Curtis (Department of Criminal Justice)

FTE

1.0

Course load and courses they will teach in the proposed program

4/4 course load
CJUS 321 Criminal Investigations and Intelligence
CJUS 424 Forensic Law
CJUS 307 Law of Evidence

Courses taught in other programs currently offered

CJUS 1120 Criminal Law; CJUS 302 Crime, Justice and Society; CJUS 306 Procedural Law; CJUS 307 Law of Evidence; CJUS 321 Criminal Investigations and Intelligence; CJUS 410 Criminal Justice Administrative Systems; CJUS 424 Forensic Law; CJUS 454 Human Trafficking; CJUS 581 Community Policing

Description of academic qualifications

MCJ, New Mexico State University, 2018
Bachelor of Arts in Criminal Justice, 1990

Prior instructional responsibility and other experiences relevant to assigned courses

Federal Bureau of Investigation, 1996-2018
Dallas-Ft. Worth Airport Department of Public Safety (DPS) Officer, 1993-1996

Existing Personnel

Jean-Pierre Vessel (Philosophy Department)

FTE

1.0

Course load and courses they will teach in the proposed program

3/3 course load
PHIL 2110G Introduction to Ethics
PHIL 2230G Philosophical Thought
PHIL 322 Environmental Ethics

Courses taught in other programs currently offered

PHILPHIL 341 Ancient Philosophy; PHIL 373 Ethical Theory; PHIL 380 Metaphysics; PHIL 435 Internship in Philosophy and Law; PHIL 201G, Introduction to Philosophy;

Description of academic qualifications

PhD University of Massachusetts Amherst 2003
BA New Mexico State University 1993

Existing Personnel

Jennifer Noonan (Philosophy Department)

FTE

1.0

Course load and courses they will teach in the proposed program

4/4 course load
PHIL 1120G Logic, Reasoning, & Critical Thinking
PHIL 376 Philosophy of Law

Courses taught in other programs currently offered

PHIL 306 Philosophy Through Film; PHIL 331 Philosophy of Religion; PHIL 344 Modern Philosophy; PHIL 346 Philosophy of Mind; PHIL 397 Existentialism; PHIL 448 Writing Philosophy; PHIL 1115G Introduction to Philosophy; PHIL 211G Informal Logic;

Description of academic qualifications

PhD, Massachusetts Institute of Technology, 1998
BA, Boston University, 1990

Existing Personnel

Justin Klocksiem (Philosophy Department)

FTE

1.0

Course load and courses they will teach in the proposed program

3/3 course load
PHIL 1145G Philosophy, Law, and Ethics
PHIL 2110G Introduction to Ethics

Courses taught in other programs currently offered

PHIL 320 Social and Political Philosophy; PHIL 328 Applied Ethics; PHIL 385 Human Nature and the Good Life; PHIL 1115G Introduction to Philosophy;

Description of academic qualifications

PhD University of Massachusetts Amherst 2009
BA Western Washington U. 1999

Documentation of department faculty support

FWCE_Wildlife LE letter_signed letter.pdf

Curriculum Committee Approval

Curriculum committee support_ACES_FWCE.pdf
UPAC FWCE-Wildlife Law Enforcement.pdf

Gray Associates Data

GraysData_NaturalResourceLawEnforcment.pdf

NM Higher Education Department

Describe your institution's plan for periodic evaluation of program effectiveness. Include criteria that will be used to determine effectiveness.

The effectiveness of our proposed B.S. in Wildlife Law Enforcement program will be determined by student enrollment, retention, timeto-degree completion, career placement, and through student learning outcomes assessment results. Evaluation will be initiated three
years following program inception and annually thereafter. Data will be accumulated and analyzed every three years.

The proposed program must meet one or more specified needs within the state or region. Clear and convincing evidence must be provided of the reality and extent of such need.

New Mexico faces unique challenges in protecting its diverse ecosystems, wildlife populations, and cultural landscapes, creating a strong need for a specialized undergraduate degree in Wildlife Law Enforcement. This proposed program is uniquely tailored to meet the specific needs of the New Mexico Department of Wildlife (formerly the Department of Game and Fish), ensuring that graduates are equipped with the knowledge, skills, and cultural awareness necessary to serve effectively within the state and beyond.

Currently, the New Mexico Department of Wildlife operates with approximately 120 authorized conservation officer positions statewide, however, staffing shortages have resulted in significant vacancies in recent years, with roughly one-fifth of those positions unfilled at times. This gap highlights a critical workforce need and underscores the importance of developing a dedicated educational pipeline to prepare and retain qualified wildlife law enforcement professionals in New Mexico. Tribal game warden/conservation officer positions across New Mexico's Tribes number approximately 40-60 positions. Additionally, approximately 1,500 full-time federal natural resource and wildlife law enforcement positions [illegible]ationwide that are heavily concentrated (and some exclusively

stationed) in the western United States where the majority of our public lands are. This includes 200-300 with the Bureau of Land Management, 500-650 with the USDA Forest Service, 1,500-2,000 with the National Park Service and approximately 400 with the US Fish and Wildlife Service.

By integrating natural resource management, and criminal justice, this program will prepare students for careers in wildlife law enforcement with federal agencies such as the U.S. Fish and Wildlife Service, Bureau of Land Management, U.S. Forest Service, and Bureau of Indian Affairs, as well as with tribes and Pueblos across New Mexico. Integrating natural resource management with law enforcement will better serve the needs of students interested in this field. The Department of Fish, Wildlife and Conservation Ecology regularly loses some undergraduate majors from our traditional degree program as they are looking for a degree that includes law enforcement and wildlife courses and less of the hard sciences (Math and Chemistry).

Beyond natural resource protection, the program's strong foundation in law enforcement principles will position graduates for successful careers in broader law enforcement fields. This degree will not only help fill a critical workforce gap within New Mexico's wildlife agencies but also strengthen the long-term stewardship and protection of the state's natural and cultural resources while expanding career pathways for students statewide.

If the program fills a regional workforce need, describe collaboration between your institution and regional employers in the program development.

The proposed undergraduate degree in Wildlife Law Enforcement addresses a critical regional workforce need across New Mexico and the broader Southwest, where vast public lands, diverse wildlife populations, and complex jurisdictional boundaries require highly trained enforcement professionals. State and federal agencies in the region continue to face persistent staffing shortages and increasing demands related to conservation, public safety, and resource protection. This program is specifically designed to meet those regional challenges by preparing graduates with a blend of legal, ecological, and enforcement expertise tailored to the realities of wildlife law enforcement in New Mexico.
Importantly, this degree has been developed with strong support from the New Mexico Department of Wildlife. New Mexico Department of Wildlife has reviewed the proposal prior to submission, engaged in direct consultation with the Department of Fish, Wildlife and Conservation Ecology, and provided a strong letter of support endorsing the program. This collaboration ensures that the curriculum aligns with current workforce needs, professional standards, and emerging challenges in the field. As a result, the program will serve as a vital pipeline for developing qualified, job-ready professionals who can contribute to wildlife law enforcement efforts at the state, federal, and tribal levels.

If similar programs are offered at other public higher education institutions in New Mexico, provide a rationale for offering an additional program.

Western New Mexico University is the only other program in New Mexico that offers a related program, a Bachelor of Applied Science in Forest/Wildlife Law Enforcement. However, persistent workforce shortages across the state indicate both the capacity and the need for an additional undergraduate pathway. With as many as one-fifth of Conservation Officer positions in New Mexico unfilled at times, the demand for well-prepared graduates continues to outpace the current supply. Establishing a second program at New Mexico State University will expand access to this career field, strengthen the talent pipeline, and more effectively meet regional workforce demands.
Importantly, our program is designed to complement, not duplicate, existing training opportunities and has the support of Western New Mexico Univeristy. NMSU students will be encouraged, when feasible, to complete the five-month Law Enforcement Training Certificate offered through Western New Mexico University. This additional, hands-on professional training will enhance graduate readiness and employability and will reduce or streamline the need for subsequent academy training with the New Mexico Department of Wildlife. By aligning academic preparation with established certification pathways, this collaborative approach maximizes existing state resources while broadening participation and ensuring that more graduates are equipped to meet the growing demand for wildlife law enforcement professionals across New Mexico.

Enrollment and Graduation Projections

Student Type	Year 1	Year 2	Year 3	Year 4	Year 5
New Students	10	10	10	10	10

Annual Retention Rate Target (%)

78%

Target 100% Graduation Rate (%)

70%

Target Job Placement Rate (%)

70%

Describe the faculty resources that are needed to initiate the program. Will any additional faculty be needed?

The Department of Fish, Wildlife and Conservation Ecology (FWCE) is well-positioned to support this program with existing personnel and coursework. FWCE includes nine regular faculty members, two senior research scientists, and two U.S. Geological Survey Cooperative Research Unit scientists, providing a strong and diverse instructional base. No additional faculty resources will be required, as the expertise needed to deliver the program is already in place. Core wildlife courses required for the degree are currently offered within the department and can accommodate the anticipated student demand.

In addition to FWCE coursework, students in the Wildlife Law Enforcement program will complete coursework in Criminal Justice and Philosophy, ensuring a well-rounded foundation in law enforcement practices, ethics, and legal frameworks. We have met with faculty leadership in both programs and have secured their full support for this initiative (see letters of support). This collaborative, interdisciplinary approach allows the program to leverage existing institutional strengths while delivering a comprehensive and workforce-relevant curriculum.

Descibe the library and other academic support resources that are needed to initiate the program. What, if any, additional resources will be needed?

The NMSU library systems provides sufficient support for this program. The library provides access to the Digital Library which supports many journals across disciplines in the Departments of Fish, Wildlife and Conservation Ecology (FWCE) and Criminal Justice and also has a very efficient interlibrary loan program. Our library system has many new user friendly upgrades and provides support for faculty, staff and students. The library worked with FWCE to prepare a report that assesses the library's ability to support our proposed B.S. program in Wildlife Law Enforcement (attached following letters of support). This report documents the multiple resources available at the library to support our faculty, staff and students. FWCE will continue to work with the library to identify essential resources needed to support our Bachelor of Science in Wildlife Law Enforcement program as we progress.

Describe the physical facilities of the institution that will be used for the first five years of the program. Will additional space or modifications of existing space be required within the first five years of program operation.

The facilities available to the department are adequate to support the proposed B.S. in Wildlife Law Enforcement. No additional facilities are needed for this program. Our facilities offer training for students in careers in fish, wildlife and conservation ecology and related fields. The following is a specific breakdown of FWCE facilities: a wildlife museum and adjacent prep room (Knox Hall 134), one teaching laboratory (Knox 143), a shared aquatic research space (Knox 144) and adjacent prep rooms, multiple classrooms for lecture (Knox Hall, Skeen Hall, Gerald Thomas Hall, Hardman Jacobs Learning Center, etc.), additional individual faculty research laboratory space (Knox Hall 101, 102, 122,135, 136, 137, 138, 139, 145, GTH 250 & 265C) and office space for graduate students (including TAs), postdoctoral fellows, senior scientists and FWCE faculty.

Describe the institution's equipment and technological resources needed for the first five years of the program? What, if any, additional equipment will be needed?

Our proposed program has no immediate needs for additional equipment. Existing equipment available for the program includes classroom space and faculty available for student advising needs and course instruction and TA's to assist with classroom instruction.

Describe any other operating resources needed to initiate the program.

None

Are there existing external facilities that will be used? Have agreements been established to ensure use of the those facilitates?

None

Provide a clear analysis of the projected cost of the proposed program and the sources of funding that will support it for the first five years that the program will be offered. Include a discussion how any of the needed resources discussed in your attachment. This should be completed in collaboration with your institution's financial office.

FWCEWildlifeLawEnforcementBudget.pdf

Letters of Support

Combined letters_06_29_2026.pdf

Accreditation

Is the program seeking specialized accreditation?

No

Is specialized accreditation required for licensure or practice in the program?

No

Has the program already obtained the appropriate specialized accreditation? If so, attach a copy of the letter from the agency granting accreditation?

No

If the program has not yet obtained accreditation but has begun the process of seeking or plans to seek specialized accreditation, specify the name of the agency and provide the time-line for completing the process.

NA

If the program does not plan to seek specialized accreditation, provide a rational for not-seeking accreditation here. (if there is not a specialized accrediting organization for this program, indicate so as your rationale).

There is no accrediting organization for this program.

If the program includes any of the following, explain how it will ensure that student work and levels of knowledge competencies achieved will be comparable to those achieved through traditional formats: (Award credit for prior learning; use of compressed time frames; use of on-line deliver; inclusion of accelerated formats; or other approaches to learning.)

Transfer students will be accepted into the program and we will work with these students to ensure they receive appropriate credit for related coursework. We have two classes in an online content delivery format (FWCE 325 Human Dimensions of Wildlife and FWCE 447 Wildlife Law and Policy). These classes are taught by Dr. Kelly Jones (regular faculty), stationed at a remote location and Dr. Brian Milsap (senior scientist who is retired from the US Fish and Wildlife Service with extensive experience in wildlife law and teaching this class in an online format). Both classes have been previously taught and have received strong reviews from students. Classes in the criminal justice department are delivered online and face to face formats.

Will the program be part of a contractual or consortial arrangement (yes/no, explain)?

No

If the program is planning any involvement by external organizations (other than from accredited higher education institutions) in the key operations as identified below, provide the information as requested.

Type of Involvement	Name of External Organization	Percent of Involvement
Course placement and advising of students	NA	0

Briefly describe the planning process for determining the need for this new program, including the role of faculty in the planning and approval process.

Our curriculum committee began examining the need for this program several years ago as we learned about the need within New Mexico. The committee met regularly and provided updates and sought input at monthly faculty meetings.

Describe the process for assessing and improving student learning in the proposed program.

Program effectiveness will be determined based on recruitment, retention, time-to-degree completion, placement of students following degree completion, completion of student learning outcomes assessments, and evidence of continuous improvement in student learning within NMSU's proposed Wildlife Law Enforcement Degree. Student learning will be assessed through direct and indirect measures aligned with program learning outcomes, and assessment results will be used to identify areas for curricular and instructional improvement. Evaluation of program effectiveness and student learning outcomes will take place three years after the program's inception and every year thereafter, evaluating all six PLOs over a 3-year period. FWCE 447 Wildlife Law and Policy will be used to measure the multidisciplinary benefits of this program. Retention will be tracked annually. All students in the program will be provided with regular advising and mentoring by their assigned advisor. This ongoing communication will help ensure a clear path to degree completion, including successful progression through coursework, experiential learning opportunities, and any required research activities.

Describe the process for assessing and improving student persistence and completion, in the new program.

Student persistence and completion in this proposed program will be assessed through the systematic monitoring of retention rates, academic progress, time-to-degree completion, and graduation rates. Program faculty and advisors will review these metrics annually to identify trends, barriers to student success, and opportunities for improvement. Students will receive regular advising and mentoring from their assigned advisor to support academic planning, career development, and timely progression through the curriculum. All students will also be required to engaged in a professional experience/internship. Early identification of students experiencing academic or personal challenges will allow for targeted interventions and referrals to appropriate university support services. Assessment findings will be used to implement and refine strategies that promote student engagement, persistence, and successful degree completion. Program effectiveness related to persistence and completion will be formally evaluated three years after program implementation and every year thereafter as part of the program's continuous improvement process.

If any of the institution's accreditation relationship (including other regional, specialized, or national accrediting agencies) are currently under or recommended for a negative status or action (e.g., withdrawal, probation, sanction, warning, show-cause, etc.)

NA

If the institution is undergoing or facing substantial monitoring, special review or financial restrictions from the U.S. Department of Education or other federal or state government agencies.

NA

If the institution's senior leadership or board membership has experienced substantial resignations or removals in the past year.

Our college leadership has been strong and stable. Our current Dean, Dr. Rolando Flores, is retiring in 2026 after 10 years of leadership. The Associate Dean and Director of Cooperative Extension, and Associate Dean and Director of the Agricultural Experiment Station positions have been stable. Our Associate Dean and Director of Academic Programs started his new position in the summer of 2025. NMSU currently has a new Provost (summer 2026) and our President, Dr. Ferme started his position in fall 2024.

If the institution is experiencing financial difficulty through conditions, such as, a currently declared state of exigency, a deficit of 10% or more, a default or failure to make payroll during the past year, or consecutive deficits in the two most recent years.

NA

Institution Specific Information Area

Primary target audience for the program (e.g., full#time, part#time, traditional college age, working adults, transfer students, military personnel, or particular ethnic group)

The primary target audience for the Bachelor of Science in Wildlife Law Enforcement is undergraduate students who are interested in pursuing careers with state or federal agencies focused on law enforcement within natural resource fields. This includes individuals seeking to become conservation officers or to work with agencies such as the U.S. Fish and Wildlife Service, Bureau of Land Management, U.S. Forest Service, and Bureau of Indian Affairs, as well as with Tribal and Pueblo governments.

How does the proposed program align with the department, college and university mission?

The proposed program will support the strategic goals outlined in NMSU LEADS 2025.

GOAL 1: Enhance student success and social mobility
Objective 1.1- Diversify, optimize, and increase system-wide enrollment by differentiating and targeting recruitment, marketing and pricing strategies. Our proposed B.S. in Wildlife Law Enforcement will be accessible to diverse audiences, including underserved populations in New Mexico. This program will create a new pipeline for NMSU and other students interested in careers in natural resources law enforcement.
Objective 1.2 Optimize academic program offerings, focusing on demand, quality and outcomes. Our proposed program addresses a strong need within the state of New Mexico and works collaboratively with New Mexico Department of Wildlife as well as the Criminal Justice and Philosophy Departments at NMSU to develop a quality program that meets the needs of the state of New Mexico.
Objective 1.3. Enhance student learning, retention and degree attainment, and close achievement gaps. Student hands on experiential learning and required internships will enhance classroom teaching engaging students and increasing retention.
Goal 4. Build a robust university system
Objective 4.1. Advance equity, inclusion and diversity and effectively support students, faculty and staff. A B.S. in Wildlife Law Enforcement will add to NMSU's reputation as a land grant institution meeting the needs of the people of New Mexico. This new program will serve the state of New Mexico by training students to fill a need at the state level for the New Mexico Department of Wildlife.

Discuss how admissions criteria and strategies will recruit a diverse student body?

The proposed admissions criteria align with the qualifications necessary for entry into an undergraduate degree program at New Mexico State University. All students interested in careers in law enforcement related to the management of natural resources will be encouraged to apply.

What controls are in place to ensure that the information presented to all constituencies in advertising, brochures, and other communications will be accurate?

The program leadership will work with the College of ACES to ensure compliance with NMSU's / ACES branding standards and AD compliance, and all communications will be approved by the Dean's office. NMSU office of Marketing and Communications and the ACES Department of Innovative Media will be consulted on brand application guidelines and standards.

Student Records Office Uploads

HLC wants CIP Code information that is currently being offered at both the institutional and degree level for 4-digit and 2-digit CIP codes for all new programs. This information will be provided by the University Student Records office and added to the form during the HED submissions workflow step.

Key: 1122

NM STATE UNIVERSITY

College of Agricultural, Consumer and Environmental Sciences
Department of Fish, Wildlife and Conservation Ecology
MSC 4901, New Mexico State University
P.O. Box 30003, Las Cruces, NM 88003-8003

Robert Torres
Associate Dean and Director of Academic Programs
New Mexico State University
College of Agricultural, Consumer and Environmental Sciences
Las Cruces, NM 88003-8003

20 May 2026

Dear Dr. Torres:

On 6 March 2026 the faculty in the Department of Fish, Wildlife and Conservation Ecology at New Mexico State University voted unanimously to support the establishment of a new B.S. program in Wildlife Law Enforcement. This proposed program is tailored to meet the needs of the New Mexico Department of Wildlife (formerly the Department of Game and Fish) but also addresses similar needs at the federal and tribal levels, ensuring that graduates are equipped with the knowledge, skills, and cultural awareness related to natural resource law enforcement in New Mexico. Our proposed program integrates natural resource management and criminal justice to prepare students for careers in wildlife law enforcement with the state of New Mexico, federal agencies such as the U.S. Fish and Wildlife Service, Bureau of Land Management, U.S. Forest Service, and Bureau of Indian Affairs, and tribes and Pueblos across the state. Currently, the New Mexico Department of Wildlife has approximately 102 conservation officer positions statewide, however, staffing shortages have resulted in significant vacancies in recent years. This gap highlights a critical workforce need within the state and underscores the importance of developing a dedicated educational pipeline to prepare and retain qualified wildlife law enforcement professionals in New Mexico. This proposed program has the support of Western New Mexico University (WNMU) that houses the only similar program in the state. Together both of our programs will work to meet the employment needs of the state of New Mexico and will explore potential areas for collaboration, including WNMU's police academy certificate program. This proposed program also has strong support from NMSU's Departments of Criminal Justice and Philosophy and the New Mexico Department of Wildlife. We look forward to implementing this program to better meet the needs of NMSUs wildlife students interested in Law Enforcement careers and the employment needs of New Mexico Department of Wildlife.

Sincerely,

Martha Desmond
Department Head & Regents Professor

Wiebke Boeing
Professor & Herb C. Ward Endowed Chair

NM STATE UNIVERSITY

College of Agricultural, Consumer and Environmental Sciences
Department of Fish, Wildlife and Conservation Ecology
MSC 4901, New Mexico State University
P.O. Box 30003, Las Cruces, NM 88003-8003

Jennifer Frey
Professor

Fitsum Gebreselassie
Associate Professor

Jay Gedir
Senior Research Scientist

Obed Hernández-Gómez
Assistant Professor

Kelly Jones
Digitally signed by Kelly Jones
Date: 2026.06.04 16:45:48 -06'00'

Kelly Jones
Professor

Zach Klein
Associate Professor

Theresa Laverty
Assistant Professor

Abby Lawson
USGS Cooperative Fish and Wildlife
Research Unit & Affiliate Assistant Professor

Kasey Pregler
U.S.G.S. Cooperative Fish and Wildlife
Research Unit & Affiliate Assistant Professor

Aaaron Young
Assistant Professor

College of Agricultural, Consumer
and Environmental Sciences
MSC 3AG
New Mexico State University
P.O. Box 30003
Las Cruces, NM 88003-8003
575-646-3748, fax: 575-646-5975

MEMORANDUM

DATE: May 19, 2026

TO: Whom It May Concern

FROM: Dr. Robert M Torres, Associate Dean and Director of Academic Programs

RE: Support for New B.S. in Wildlife Law Enforcement

The Curriculum Committee of the College of Agricultural, Consumer and Environmental Sciences (ACES) met asynchronously from May 5–19 to review and discuss the merits of a new Bachelor of Science degree in Wildlife Law Enforcement. This proposal was developed by the Department of Fish, Wildlife and Conservation Ecology.

Following discussion and deliberation, the ACES Curriculum Committee voted to support the proposal for submission into the NMSU system approval process, with a vote of 7 in support, 0 opposed, and 1 abstention.

The external letters of support demonstrate broad and meaningful endorsement from internal academic departments, state and federal agencies, tribal governments, and peer institutions. Collectively, these statements highlight workforce demand, the need for interdisciplinary preparation, conservation priorities, and the value of strengthened partnerships associated with the proposed Wildlife Law Enforcement program.

Based on its review, the Committee believes there is clear evidence of both need and demand for an undergraduate degree program in this area and that the proposed program aligns well with the University's mission and strategic goals. Additionally, the Committee determined that the necessary departmental, college, and university resources are available to support the successful implementation, long-term sustainability, and continued growth of this initiative.

The College of ACES looks forward to the addition of this innovative degree program to its academic portfolio and the opportunities it will create for students and the broader community.

xc: Dean Rolando Flores, 2026 ACES Curriculum Committee

NM STATE UNIVERSITY

College of Agricultural, Consumer and Environmental Sciences
Department of Fish, Wildlife and Conservation Ecology
MSC 4901, New Mexico State University
P.O. Box 30003, Las Cruces, NM 88003-8003

13 May 2026

Undergraduate Curriculum Committee
Department of Fish, Wildlife and Conservation Ecology
New Mexico State University
College of Agricultural, Consumer and Environmental Sciences
Las Cruces, NM 88003-0003

Dear Drs. Desmond and Torres,
This letter documents the enthusiastic and unanimous support of the Fish, Wildlife and Conservation Ecology Undergraduate Curriculum Committee for establishing a B.S. in Wildlife Law Enforcement within the Department of Fish, Wildlife and Conservation Ecology at New Mexico State University. We have worked collaboratively with the entire faculty on the development of this program and are excited to see it come to fruition.
Sincerely,



Zach Klein
Chair of the FWCE Undergraduate Curriculum Committee
Associate Professor, Department of Fish, Wildlife and Conservation Ecology



Jennifer Frey
Committee member, FWCE Undergraduate Curriculum Committee
Professor, Fish Wildlife and Conservation Ecology



Theresa Laverty
Committee member, FWCE Undergraduate Curriculum Committee
Assistant Professor, Department of Fish, Wildlife and Conservation Ecology

NM STATE UNIVERSITY

College of Agricultural, Consumer and Environmental Sciences
Department of Fish, Wildlife and Conservation Ecology
MSC 4901, New Mexico State University
P.O. Box 30003, Las Cruces, NM 88003-8003

Casey Wagon
Committee Member, FWCE Undergraduate Curriculum Committee
Postdoctoral Fellow, Department of Fish, Wildlife and Conservation Ecology



College of Arts and Sciences
Office of the Dean
New Mexico State University
PO Box 30001
Las Cruces, NM 88003-8001
Phone: 575-646-2001 Fax: 575-646-6096

MEMORANDUM

Date: August 26, 2026
To: Academic program approving bodies
From: Joseph Lakey, UPAC co-chair
Joseph Lakey Digitally signed by Joseph Lakey Date: 2026.08.26 16:17:12 -06'00'
Subject: UPAC support of **Wildlife Law Enforcement - Bachelor of Science in Fish, Wildlife and Conservation Ecology**

On August 20, NMSU's University Program Approval Committee (UPAC) formally heard the proposal for a new bachelor's program in Wildlife Law Enforcement to be administered primarily by NMSU's Department of Fish, Wildlife, and Conservation Ecology, with support from the Departments of Criminal Justice and Philosophy in the form of commitments to provide required coursework for the program.

UPAC was excited about the multi-disciplinary nature of the program and commitment to resource sharing across academic units. It made several concrete suggestions that it felt would strengthen the proposal moving forward, specifically requests to:

- Strengthen articulation of program learning outcomes
- Identify specific faculty in Criminal Justice who would contribute to instruction
- Provide more specific information regarding program assessment
- Address workforce needs beyond the New Mexico Department of Wildlife

I have reviewed the significant revisions that the proposing unit was asked to provide on a very short timeline and can speak on behalf of UPAC in stating that each of its concerns has been addressed more than adequately.

Program Overview

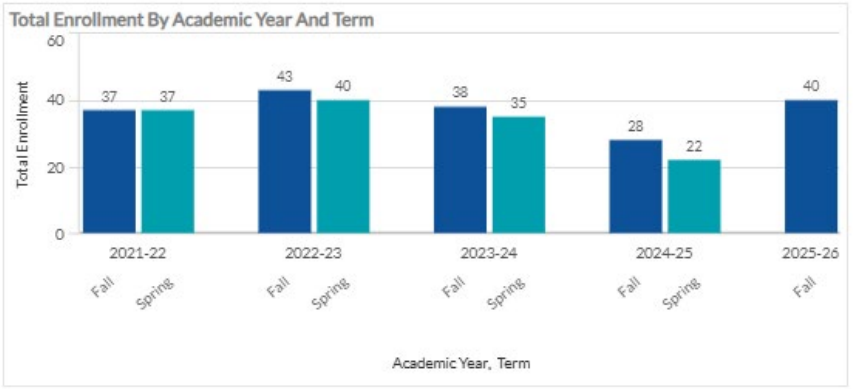
03.0208 Nat. Resources Law Enforcement/ Protection

Award Level: Bachelor
Market: WICHE and National
Rubric: On the Ground and Online

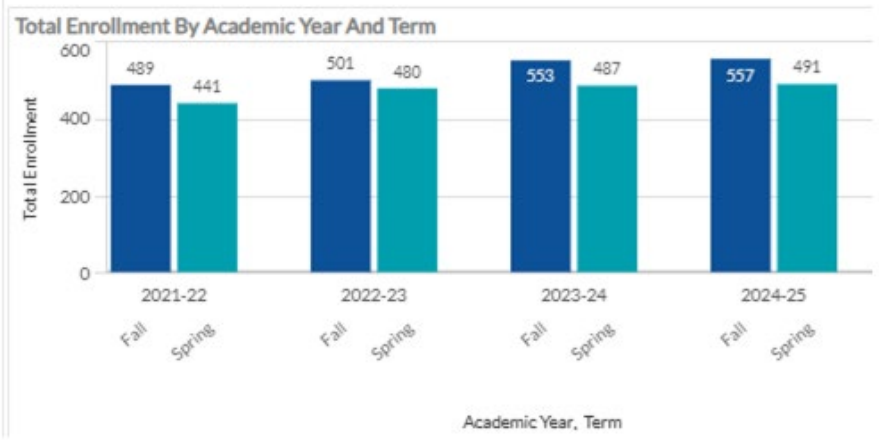
03.208 Natural Resources Law Enforcement and Protection

New Student Enrollment Trends

WICHE Market



National Market



Student Enrollment Trends are stable across WICHE and National Markets

03.208 Natural Resources Law Enforcement and Protection

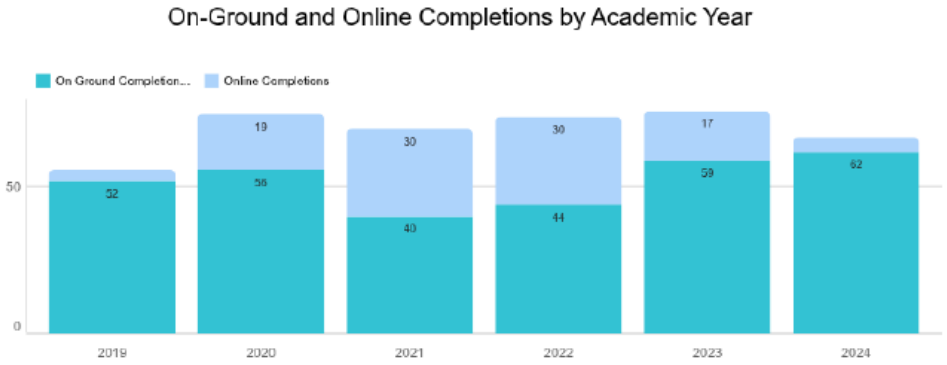
Student Completions

WICHE Market



63rd percentile across all CIP Codes in WICHE states

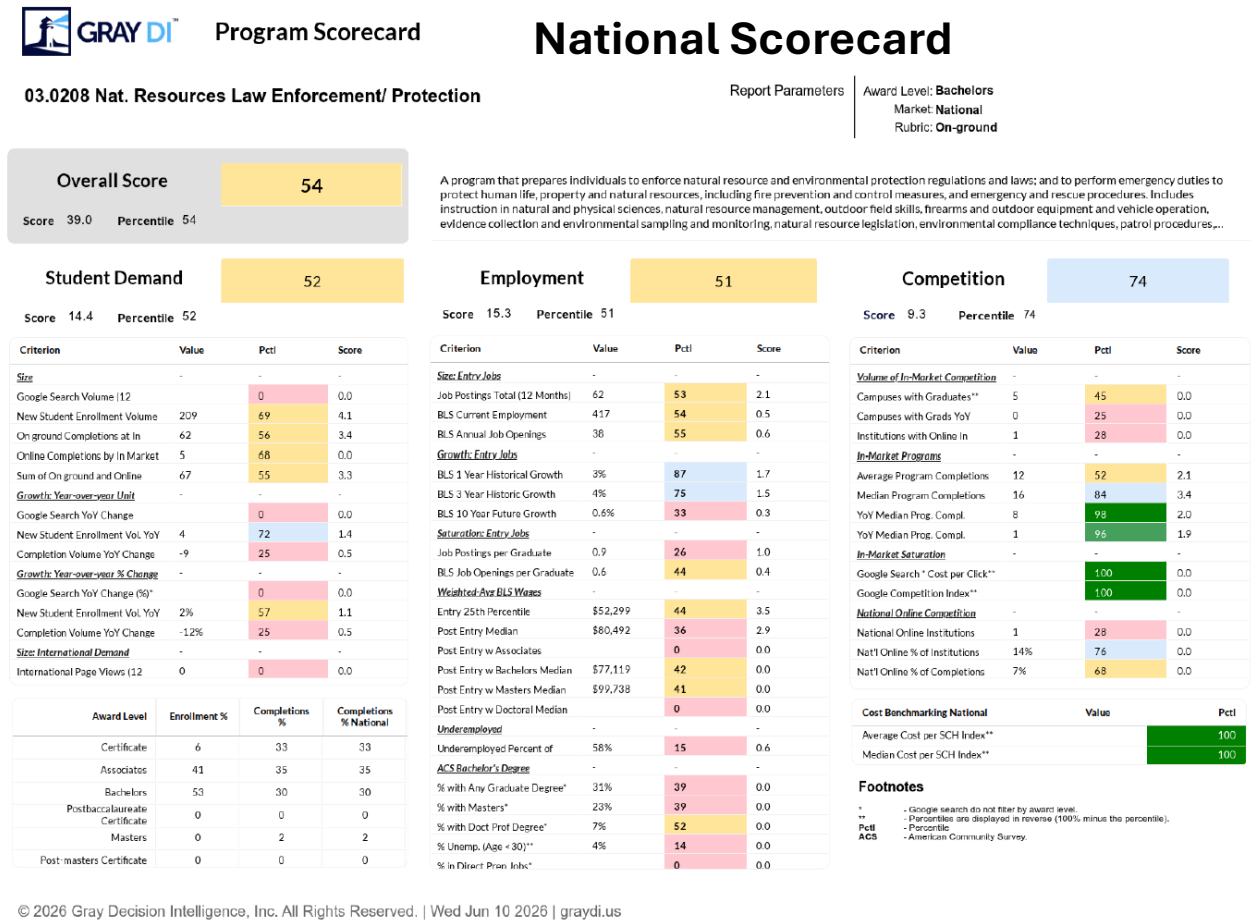
National Market



55th percentile across all CIP Codes nationwide

Above average completions in this CIP Code for WICHE and National Markets

03.208 Natural Resources Law Enforcement and Protection



GRAY DI™ Program Scorecard

National Scorecard

03.0208 Nat. Resources Law Enforcement/ Protection

Report Parameters | Award Level: **Bachelors** | Market: **National** | Rubric: **On-ground**

Overall Score 54

Score 39.0 Percentile 54

A program that prepares individuals to enforce natural resource and environmental protection regulations and laws; and to perform emergency duties to protect human life, property and natural resources, including fire prevention and control measures, and emergency and rescue procedures. Includes instruction in natural and physical sciences, natural resource management, outdoor field skills, firearms and outdoor equipment and vehicle operation, evidence collection and environmental sampling and monitoring, natural resource legislation, environmental compliance techniques, patrol procedures,...

Student Demand 52

Score 14.4 Percentile 52

Criterion	Value	Pctl	Score
Size	-	-	-
Google Search Volume (12		0	0.0
New Student Enrollment Volume	209	69	4.1
On ground Completions at In	62	56	3.4
Online Completions by In Market	5	68	0.0
Sum of On ground and Online	67	55	3.3
Growth: Year-over-year Unit	-	-	-
Google Search YoY Change		0	0.0
New Student Enrollment Vol. YoY	4	72	1.4
Completion Volume YoY Change	-9	25	0.5
Growth: Year-over-year % Change	-	-	-
Google Search YoY Change (%)*		0	0.0
New Student Enrollment Vol. YoY	2%	57	1.1
Completion Volume YoY Change	-12%	25	0.5
Size: International Demand	-	-	-
International Page Views (12	0	0	0.0

Award Level	Enrollment %	Completions %	Completions % National
Certificate	6	33	33
Associates	41	35	35
Bachelors	53	30	30
Postbaccalaureate Certificate	0	0	0
Masters	0	2	2
Post-masters Certificate	0	0	0

Employment 51

Score 15.3 Percentile 51

Criterion	Value	Pctl	Score
Size: Entry Jobs	-	-	-
Job Postings Total (12 Months)	62	53	2.1
BLS Current Employment	417	54	0.5
BLS Annual Job Openings	38	55	0.6
Growth: Entry Jobs	-	-	-
BLS 1 Year Historical Growth	3%	87	1.7
BLS 3 Year Historic Growth	4%	75	1.5
BLS 10 Year Future Growth	0.6%	33	0.3
Saturation: Entry Jobs	-	-	-
Job Postings per Graduate	0.9	26	1.0
BLS Job Openings per Graduate	0.6	44	0.4
Weighted-Avg BLS Wages	-	-	-
Entry 25th Percentile	$52,299	44	3.5
Post Entry Median	$80,492	36	2.9
Post Entry w Associates		0	0.0
Post Entry w Bachelors Median	$77,119	42	0.0
Post Entry w Masters Median	$99,738	41	0.0
Post Entry w Doctoral Median		0	0.0
Underemployed	-	-	-
Underemployed Percent of	58%	15	0.6
ACS Bachelor's Degree	-	-	-
% with Any Graduate Degree*	31%	39	0.0
% with Masters*	23%	39	0.0
% with Doct Prof Degree*	7%	52	0.0
% Unemp. (Age < 30)**	4%	14	0.0
% in Direct Prep Jobs*		0	0.0

Competition 74

Score 9.3 Percentile 74

Criterion	Value	Pctl	Score
Volume of In-Market Competition	-	-	-
Campuses with Graduates**	5	45	0.0
Campuses with Grads YoY	0	25	0.0
Institutions with Online In	1	28	0.0
In-Market Programs	-	-	-
Average Program Completions	12	52	2.1
Median Program Completions	16	84	3.4
YoY Median Prog. Compl.	8	98	2.0
YoY Median Prog. Compl.	1	96	1.9
In-Market Saturation	-	-	-
Google Search * Cost per Click**		100	0.0
Google Competition Index**		100	0.0
National Online Competition	-	-	-
National Online Institutions	1	28	0.0
Nat'l Online % of Institutions	14%	76	0.0
Nat'l Online % of Completions	7%	68	0.0

Cost Benchmarking National	Value	Pctl
Average Cost per SCH Index**		100
Median Cost per SCH Index**		100

Footnotes

* - Google search do not filter by award level.
** - Percentiles are displayed in reverse (100% minus the percentile).
Pctl - Percentile
ACS - American Community Survey.

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Student demand is in the 52nd percentile

Employment is in the 51st percentile

Competition is in the 74th percentile

Six institutions nationally reported completions in 2024 (n = 67)

Student enrollment and employment is average compared to other CIP Codes

03.208 Natural Resources Law Enforcement and Protection

GRAY DI Program Scorecard

WICHE Scorecard

03.0208 Nat. Resources Law Enforcement/ Protection

Report Parameters | Award Level: **Bachelors**
Market: **WICHE States New Mexico State University**
Rubric: **On-ground**

Overall Score	61
Score 39.3	Percentile 61

A program that prepares individuals to enforce natural resource and environmental protection regulations and laws; and to perform emergency duties to protect human life, property and natural resources, including fire prevention and control measures, and emergency and rescue procedures. Includes instruction in natural and physical sciences, natural resource management, outdoor field skills, firearms and outdoor equipment and vehicle operation, evidence collection and environmental sampling and monitoring, natural resource legislation, environmental compliance techniques, patrol procedures,...

Student Demand — 58

Score 14.7 Percentile 58

Criterion	Value	Pctl	Score
Size	-	-	-
Google Search Volume (12		0	0.0
New Student Enrollment Volume	9	54	3.2
On ground Completions at In	19	65	3.9
Online Completions by In Market	1	73	0.0
Sum of On ground and Online	20	63	3.8
Growth: Year-over-year Unit	-	-	-
Google Search YoY Change		0	0.0
New Student Enrollment Vol. YoY	-3	22	0.4
Completion Volume YoY Change	1	79	1.6
Growth: Year-over-year % Change	-	-	-
Google Search YoY Change (%)*		0	0.0
New Student Enrollment Vol. YoY	-25%	23	0.5
Completion Volume YoY Change	4%	65	1.3
Size: International Demand	-	-	-
International Page Views (12	0	0	0.0

Award Level	Enrollment %	Completions %	Completions % National
Certificate	31	65	33
Associates	48	7	35
Bachelors	21	27	30
Postbaccalaureate Certificate	0	1	0
Masters	0	0	2
Post-masters Certificate	0	0	0

Employment — 55

Score 15.6 Percentile 55

Criterion	Value	Pctl	Score
Size: Entry Jobs	-	-	-
Job Postings Total (12 Months)	15	54	2.2
BLS Current Employment	120	55	0.6
BLS Annual Job Openings	11	56	0.6
Growth: Entry Jobs	-	-	-
BLS 1 Year Historical Growth	3%	95	1.9
BLS 3 Year Historic Growth	5%	78	1.6
BLS 10 Year Future Growth	0.7%	35	0.4
Saturation: Entry Jobs	-	-	-
Job Postings per Graduate	0.8	32	1.3
BLS Job Openings per Graduate	0.6	38	0.4
Weighted-Avg BLS Wages	-		-
Entry 25th Percentile	$57,080	44	3.5
Post Entry Median	$85,622	34	2.7
Post Entry w Associates		0	0.0
Post Entry w Bachelors Median	$82,056	42	0.0
Post Entry w Masters Median	$105,966	42	0.0
Post Entry w Doctoral Median		0	0.0
Underemployed	-	-	-
Underemployed Percent of	58%	15	0.6
ACS Bachelor's Degree	-	-	-
% with Any Graduate Degree*	31%	39	0.0
% with Masters*	23%	39	0.0
% with Doct Prof Degree*	7%	52	0.0
% Unemp. (Age < 30)**	4%	14	0.0
% in Direct Prep Jobs*		0	0.0

Competition — 78

Score 9.0 Percentile 78

Criterion	Value	Pctl	Score
Volume of In-Market Competition	-	-	-
Campuses with Graduates**	1	37	0.0
Campuses with Grads YoY	0	15	0.0
Institutions with Online In	1	19	0.0
In-Market Programs	-	-	-
Average Program Completions	19	64	2.6
Median Program Completions	19	78	3.1
YoY Median Prog. Compl.	3	87	1.7
YoY Median Prog. Compl.	19%	81	1.6
In-Market Saturation	-	-	-
Google Search * Cost per Click**		100	0.0
Google Competition Index**		100	0.0
National Online Competition	-	-	-
National Online Institutions	1	28	0.0
Nat'l Online % of Institutions	14%	76	0.0
Nat'l Online % of Completions	7%	68	0.0

Cost Benchmarking National	Value	Pctl
Average Cost per SCH Index**		100
Median Cost per SCH Index**		100

Footnotes

* - Google search do not filter by award level.
** - Percentiles are displayed in reverse (100% minus the percentile).
Pctl - Percentile
ACS - American Community Survey.

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Student demand is in the 58th percentile

Employment is in the 55th percentile

Competition is in the 78th percentile

Only one WICHE university had graduates (n = 20) during this reporting period (2024)
Student demand and employment is above averag ompared to other CIP Codes

03.208 Natural Resources Law Enforcement and Protection

Take Aways:

- Student enrollment trends are stable
- Competition for jobs is low as there are few programs in western states (and nationally) that specifically target Wildlife and Natural Resource Law Enforcement
- Student demand and employment ranks higher than the majority of other CIP Codes in the WICHE Market
- Average Salary for professionals in Natural Resources Law Enforcement and Protection ranges from $52,000-$68,000 annually at the state level to >$100,000 at the federal level

Wildlife and Fisheries Ecology Wildlife Law Enforcement BS Program Five-Year Cost Estimate

Program Cost Estimate

							Input Variables	
NMSU Tuition Revenue	**New Student #**	**2027**	**2028**	**2029**	**2030**	**2031**	Tuition & Fees Flat Rate 1	$3,364.10 per semester
Cohort 1 (starts 2027)	2	$33,641.00	$67,282.00	$67,282.00	$67,282.00	$67,282	SCH per year	15
Cohort 2 (starts 2028)	2		$52,480.00	$52,480.00	$52,480.00	$52,480.00	Payroll inflation	1%
Cohort 3 (starts 2029)	2			$47,097.00	$47,097.00	$47,097.00	Operating inflation	1%
Cohort 4 (starts 2030	2				$47,097.00	$42,097.00	Regular benefits	37.50%
Cohort 5 (starts 2031)	2					$47,097.00	TA benefits	0.72%
NMSU Tuition Total		**$33,641.00**	**$119,762.00**	**$166,859.00**	**$213,956.00**	**$256,053.00**	1st year retention	0.78
							Overall retention	0.7

NMSU Progrm Expenses					
Instructor Salaries[a]					
Cohort 1 (starts 2026)					
Cohort 2 (starts 2027)					
Cohort 3 (starts 2028)					
Cohort 4 (starts 2029)					
Cohort 5 (starts 2030)					
Number of students	10	20	30	40	50
Coordinator[b]	$0	$0	$0	$0	$0
Regular benefits	$0	$0	$0	$0	$0
Misc. operating	$0	$0	$0	$0	$0
TA benefits[c]	$0	$0	$0	$0	$0
Total expenses	$0	$0	$0	$0	$0
Annual profit	**$33,641.00**	**$119,762.00**	**$166,859.00**	**$213,956.00**	**$256,053.00**

[a]No new instructors required: existing instructors salaries covered by other funds

[b]Program coordinator is not required

[c]GA benefits will be paid through existing Taships

A. Letters of Support, BS degree in Wildlife Law Enforcement at New Mexico State University
    1. New Mexico State University
        a. Department of Criminal Justice
        b. Department of Philosophy
    2. Similar Programs in New Mexico
        a. Western New Mexico University
    3. State of New Mexico
        a. New Mexico Department of Wildlife
        b. State Police Office
        c. Dona Ana County Sheriff's Office
    4. Federal Agencies
        a. U.S. Fish and Wildlife Service
        b. Bureau of Land Management
    5. Tribal
        a. Navajo Nation
        b. Mescalero Apache Tribe
    6. Non-governmental Organizations
        a. Dona Ana County Sportsman
        b. Backcountry Hunters and Anglers
        c. Safari Club International, Northern New Mexico Chapter
B. Library

NM STATE UNIVERSITY

Criminal Justice
MSC 3487
New Mexico State University
P. O. Box 30001
Las Cruces, NM 88003-8001

April 27, 2026

To Whom It May Concern,

The Department of Criminal Justice at New Mexico State University is pleased to express its full support for the proposed Bachelor of Science in Wildlife Law Enforcement at NMSU.

I have met with Drs. Martha Desmond and Zach Klein to discuss the proposed program, including the integration and relevance of Criminal Justice coursework. These conversations have been productive and demonstrate clear opportunities for our department to contribute meaningfully to the academic and professional preparation of students pursuing careers in wildlife law enforcement.

We recognize the importance of interdisciplinary training in this field, particularly the need for a strong foundation in criminal law, investigative practices, and justice systems alongside wildlife and natural resource management. The proposed program reflects a thoughtful approach to meeting workforce demands and preparing students for careers that require both scientific knowledge and law enforcement expertise. I support the inclusion of up to 18 credits in Criminal Justice in this degree program.

The Department of Criminal Justice fully supports the development and implementation of the Bachelor of Science in Wildlife Law Enforcement at New Mexico State University. We look forward to continued collaboration and to contributing to the success of this innovative program.

Please feel free to reach out with any questions or concerns or for additional information at cposadas@nmsu.edu or 575-646-3951.

Sincerely,

Carlos Posadas

Carlos E. Posadas, Ph.D.
Academic Head
Professor, Department of Criminal Justice
cposadas@nmsu.edu

NM STATE UNIVERSITY

Department of Philosophy
MSC 3B
New Mexico State University
P.O. Box 30001
Las Cruces, NM 88003-8001
575-646-4616, fax: 575-646-2358

21 April 2026

To Whom It May Concern,

I am writing to express my strong support for the proposed Wildlife Law Enforcement degree at New Mexico State University. This program represents a forward-thinking and much-needed response to the growing challenges facing wildlife conservation and public land management. I have met with Drs. Martha Desmond and Zach Klein to discuss the proposed program.

I would like to specifically commend and support the inclusion of 12 credit hours of philosophy within the degree curriculum. At first glance, philosophy may seem outside the traditional scope of law enforcement training; however, it is highly relevant. Wildlife officers regularly face complex ethical decisions involving conservation priorities, public interests, legal interpretation, and the humane treatment of animals. A background in philosophy equips students with critical thinking skills, ethical reasoning frameworks, and the ability to analyze nuanced situations with clarity and responsibility.

Incorporating philosophy into the program helps ensure that graduates are not only technically competent but also thoughtful and principled decision-makers. This interdisciplinary approach will distinguish the program and better prepare students for the real-world complexities they will encounter in the field.

In conclusion, I strongly support the creation of the Wildlife Law Enforcement degree at New Mexico State University, as well as the inclusion of philosophy coursework as a core component. Together, these elements will produce well-rounded, capable professionals who are prepared to uphold both the law and the ethical standards essential to wildlife conservation.

Thank you for your time and consideration.

Sincerely,

Timothy Cleveland

Department head/Professor

WNMU COLLEGE OF ARTS AND SCIENCES
Department of Natural Sciences

May 05, 2026

To Whom It May Concern,

Western New Mexico University (WNMU) is writing to express its support for the proposed Bachelor of Science degree in Wildlife Law Enforcement at New Mexico State University (NMSU).

WNMU recognizes that the establishment of this program may provide additional educational pathways for students in New Mexico who are interested in careers in law enforcement, particularly in areas related to wildlife and natural resource protection. Expanding access to specialized training opportunities can help meet student demand and contribute to workforce development in the state.

While WNMU currently offers a similar program (BS in Forest Wildlife Law Enforcement), we are not concerned about the presence of a second program in New Mexico focused on wildlife law enforcement. New Mexico Department of Wildlife struggles to fill all open positions. The addition of NMSU's program may help address ongoing workforce needs and provide students with options that best fit their needs. In fact, given that WNMU has a well-established Police Academy, approval and implementation of this proposed degree program may open the door for collaboration between our two institutions regarding completion of law enforcement coursework and training by NMSU students pursuing the proposed degree.

WNMU appreciates the opportunity to review and comment on this proposal and supports the establishment of the program at NMSU.

Sincerely,

Shiva K. Kyasa, Ph.D.
Professor | Chair, Natural Science Department
Western New Mexico University.

GOVERNOR
Michelle Lujan Grisham

DIRECTOR AND SECRETARY
TO THE COMMISSION
Michael B. Sloane

STATE OF NEW MEXICO
DEPARTMENT OF WILDLIFE

One Wildlife Way, Santa Fe, NM 87507

Tel: (505) 476-8000 | Fax: (505) 476-8180

For information call: (888) 248-6866

www.wildlife.dgf.nm.gov

STATE WILDLIFE COMMISSION

RICHARD STUMP
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Jal

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Santa Fe

TIRZIO J. LOPEZ
Cebolla

DR. CHRISTOPHER C. WITT
Albuquerque

To Whom It May Concern,

On behalf of the New Mexico Department of Wildlife, I am pleased to express our strong support for the proposed undergraduate program in Wildlife Law Enforcement within the Department of Fish, Wildlife and Conservation Ecology at New Mexico State University.

Our agency currently employs approximately 120 commissioned Conservation Officers who are tasked with enforcing state wildlife laws, safeguarding natural resources, and promoting public safety across New Mexico's diverse landscapes. These officers serve a vital role in conservation, working in both rural and urban settings to address illegal hunting and fishing, habitat degradation, and other natural resource violations.

Despite sustained recruitment efforts, the Department continues to face ongoing challenges in filling Conservation Officer vacancies each year. The demands of this profession require individuals who possess not only a solid academic background in natural resource management, but also training in law enforcement practices, field operations, and effective public interaction. The limited number of candidates with this combination of skills has made it increasingly difficult to meet our staffing needs and uphold our mission.

The establishment of a dedicated undergraduate program in Wildlife Law Enforcement at New Mexico State University would represent a meaningful and strategic step toward addressing this workforce gap. We currently collaborate with Western New Mexico University on a similar program and have seen the value of targeted, career-focused education in preparing future officers. Expanding these opportunities within the state will strengthen the pipeline of qualified applicants. It is our belief that having two programs in New Mexico specifically focused on Wildlife Law Enforcement will significantly improve our ability to meet the growing needs of the state.

The collaborative structure between the Department of Fish, Wildlife and Conservation Ecology and the Department of Criminal Justice in this proposed program makes it particularly unique and valuable. This integrated approach ensures that students receive a well-rounded education that combines a strong foundation in wildlife ecology with comprehensive training in law enforcement. Graduates of this program will be uniquely equipped with both the scientific understanding of natural resource systems and the practical skills necessary to enforce laws, interact with the public, and operate effectively in the field.

We strongly support this proposed program and are confident it will provide lasting benefits not only to our agency, but also to the broader conservation community and the citizens of New Mexico. Investing in the education and professional preparation of future Conservation Officers is essential to ensuring the long-term stewardship of our state's natural resources.

Thank you for your consideration of this important initiative.

Sincerely,

Michael Sloane, Director

Michael B. Sloane Digitally signed by Michael B. Sloane
Date: 2026.04.20 14:28:53 -06'00'

Tim Cimbal, Colonel

TCimbal Digitally signed by TCimbal
Date: 2026.04.20 14:15:39 -06'00'

New Mexico Department of Wildlife

Martha Desmond
Department of Fish, Wildlife, and Conservation Ecology
New Mexico State University
Las Cruces, NM 88003

Dear Dr. Desmond:

I am writing in support of the proposed Wildlife Law Enforcement program within the Department of Fish, Wildlife, and Conservation Ecology at New Mexico State University.

This program is a significant advancement in preparing future professionals to address the increasing challenges of wildlife conservation, resource protection, and public safety in New Mexico. The collaboration between the Department of Fish, Wildlife, and Conservation Ecology and the Department of Criminal Justice ensures students gain both scientific knowledge and practical law enforcement training.

Effective protection of New Mexico's wildlife and public lands requires officers with expertise in conservation, resource management, and law enforcement. This program will develop qualified candidates ready to serve agencies statewide, including conservation and public safety organizations. Graduates will contribute valuable knowledge, professionalism, and leadership to wildlife law enforcement.

The New Mexico State Police recognize the value of partnerships among educational institutions, conservation agencies, and law enforcement organizations. Programs like this enhance our capacity to protect natural resources, support communities, and ensure responsible stewardship of New Mexico's lands and wildlife for future generations.

I fully support the establishment and ongoing development of this program and believe it will deliver lasting benefits to New Mexico.

Sincerely,



Matt Broom
Chief – New Mexico State Police

Doña Ana County Sheriff's Office

845 N. Motel Blvd
Las Cruces, NM 88007

Kim Stewart, Sheriff

Robert C. Parra, Undersheriff

June 8, 2026

Doña Ana County Sheriff's Office
845 N. Motel Boulevard
Las Cruces, NM 88007

Dear Dr. Desmond,

I am pleased to offer my strong support for the proposed Wildlife Law Enforcement degree within the Department of Fish, Wildlife and Conservation Ecology at New Mexico State University. This program represents an important investment in the future of conservation, public safety, and natural resource protection throughout New Mexico and the Southwest.

The challenges facing wildlife conservation and natural resource protection today require highly trained professionals who understand not only law enforcement practices, but also the ecological systems and ethical responsibilities connected to wildlife management. As environmental pressures continue to grow and human interactions with wildlife become increasingly complex, there is a clear need for officers who possess both enforcement expertise and a deep understanding of conservation principles.

Southern New Mexico and the broader Southwest contain diverse habitats, extensive public lands, and valuable wildlife populations that require knowledgeable and well-prepared officers capable of addressing complex issues such as poaching, habitat destruction, illegal wildlife trafficking, and human-wildlife conflict. These challenges often require cooperation among multiple agencies and stakeholders, making specialized education and training essential for effective management and enforcement.

A degree program that combines criminal justice with studies in wildlife ecology would provide students with the interdisciplinary foundation necessary for effective service in the field. Wildlife officers must possess a strong ecological background and a commitment to environmental stewardship to make informed decisions and work successfully with local, state, federal, and Tribal governments. By integrating these disciplines, New Mexico State University will help prepare graduates to meet the evolving demands of wildlife law enforcement and conservation management.

Doña Ana County Sheriff's Office

845 N. Motel Blvd
Las Cruces, NM 88007

Kim Stewart, Sheriff

Robert C. Parra, Undersheriff

I am particularly encouraged by the inclusion of philosophy courses within the proposed curriculum. These courses provide students with valuable skills in ethical reasoning, public service values, and critical thinking. Such preparation is essential for law enforcement professionals who must regularly navigate difficult situations requiring sound judgment, integrity, and respect for the communities and environments they serve. Developing these competencies will strengthen graduates' ability to make thoughtful and responsible decisions throughout their careers.

This proposed program would help prepare the next generation of conservation-minded law enforcement professionals while supporting the long-term protection of New Mexico's natural resources. It would also create valuable educational and career opportunities for students interested in public safety, conservation, and environmental leadership. By establishing this degree, New Mexico State University will further its role as a leader in addressing the unique environmental and public service needs of our region.

I commend New Mexico State University and the Department of Fish, Wildlife and Conservation Ecology for their vision and commitment to developing this important academic program. I strongly support its approval and implementation and believe it will provide lasting benefits to our state, its natural resources, and future generations.

Sincerely,

Kim Stewart
Sheriff
Doña Ana County Sheriff's Office

Main Station Phone: (575) 525-1911 • Toll Free: (800) 332-2121 • Fax: 575-525-8853
Anthony Substation • 865 Anthony Dr., Anthony, NM 88021 • 575) 882-4596 • Toll Free (800) 521-6289

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Office of Law Enforcement
2800 Cottage Way, W-2928
Sacramento, CA 95825

May 6, 2026

To Whom it May Concern,

On behalf of the U.S. Fish and Wildlife Service (Service), I am writing to express strong support for the proposed Law Enforcement Degree within the Department of Fish, Wildlife and Conservation Ecology at New Mexico State University.

The Service's Office of Law Enforcement plays a critical role in protecting the nation's natural resources by enforcing federal wildlife laws, combating illegal wildlife trafficking, safeguarding endangered species, and working collaboratively with tribal, state, and local partners. Our law enforcement professionals operate across local, regional, national, and international levels to address complex and evolving threats to fish, wildlife, and plant resources.

The need for well-trained conservation law enforcement professionals is especially evident in states such as New Mexico. The region encompasses vast public lands, international border areas, and ecologically sensitive habitats that face increasing pressure from illegal wildlife trade, habitat destruction, and cross-jurisdictional crimes. Federal Wildlife Officers, Special Agents, and Wildlife Inspectors in New Mexico frequently operate across large geographic areas, often in rural or remote environments, and must coordinate with multiple agencies to ensure effective enforcement and public safety. These challenges underscore the need for graduates who possess both traditional law enforcement skills and specialized knowledge in wildlife conservation and natural resource protection.

Nationwide, the demand for highly trained conservation law enforcement personnel continues to grow. The Service enforces laws that address interstate and international wildlife trafficking, environmental crimes, and the protection of more than a thousand threatened and endangered species, as well as migratory birds and critical habitats. These responsibilities require officers who are not only proficient in criminal investigation and public safety, but also knowledgeable in ecology, environmental policy, and natural resource management.

We are particularly excited about how this proposed program fosters collaboration between the Department of Fish, Wildlife and Conservation Ecology and the Department of Criminal Justice. This integrated approach will provide students with essential coursework in wildlife science alongside rigorous training in law enforcement, ensuring graduates are uniquely prepared with both the ecological knowledge and policing skills required for modern conservation law enforcement careers.

The proposed degree program at New Mexico State University would directly contribute to addressing this workforce need by preparing students with interdisciplinary training that integrates criminal justice, wildlife biology, and conservation policy. Such a program would enhance recruitment efforts, particularly in the Southwest, and help ensure that future officers are equipped to meet the complex challenges facing conservation law enforcement today.

We strongly support the development of this program and believe it will serve as a valuable investment in the future of wildlife conservation and public safety. We look forward to continued collaboration with academic institutions like New Mexico State University to strengthen the next generation of conservation law enforcement professionals.

Sincerely,



Manisa Kung
Special Agent in Charge

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Las Cruces District Office
1800 Marquess Street
Las Cruces, New Mexico 88001
www.blm.gov/new-mexico

In Reply Refer to:
8600 (LLNML03220)

May 26, 2026

Martha Desmond
Department Head
Department of Fish, Wildlife & Conservation Ecology
New Mexico State University
Las Cruces, NM 88003

Dear Dr. Desmond,

The Bureau of Land Management (BLM) recognizes the growing need for well-trained professionals in wildlife and natural resource law enforcement and is excited to support the proposed Wildlife Law Enforcement program within the Department of Fish, Wildlife and Conservation Ecology at New Mexico State University.

The development of this program represents an important opportunity to strengthen the education and training pipeline for future conservation and natural resource law enforcement professionals. The interdisciplinary collaboration between the Department of Fish, Wildlife and Conservation Ecology and the Department of Criminal Justice will provide students with the scientific, legal, and professional foundations necessary to succeed in the increasingly complex field of wildlife and natural resource protection.

The BLM employs natural resource law enforcement professionals in New Mexico and across the country to help protect public lands, wildlife habitat, cultural resources, recreational areas, and the safety of the public. As demands on public land management continue to grow, there is an increasing need for highly trained officers who understand both conservation science and law enforcement practices.

A strong local Wildlife Law Enforcement program at New Mexico State University would be a valuable asset in supporting recruitment efforts for BLM positions within New Mexico. Developing qualified candidates within the state will help build a workforce that is familiar with the unique landscapes, communities, and resource management challenges of the Southwest. This program would also help expand career opportunities for students interested in serving in conservation law enforcement and public land protection.

The Bureau of Land Management recognizes the importance of partnerships with institutions of higher education that prepare the next generation of public service professionals. We believe this

program has the potential to make a meaningful contribution to conservation, public safety, and workforce development both in New Mexico and nationally.

We appreciate the opportunity to express our support for this important initiative and look forward to the positive impact this program will have on the future of wildlife and natural resource law enforcement.

Sincerely,

STEVEN TORREZ

Digitally signed by STEVEN TORREZ
Date: 2026.05.26 13:22:06 -06'00'

Steven J. Torrez
Deputy District Manager (Acting)
Renewable Resources
Bureau of Land Management
Las Cruces District Office

Date: May 6, 2026

To Whom It May Concern,

On behalf of the Navajo Nation, I am writing to express our strong support for the proposed undergraduate program in Wildlife Law Enforcement within the Department of Fish, Wildlife and Conservation Ecology at New Mexico State University.

The Navajo Nation is responsible for managing vast and ecologically diverse lands that support a wide range of wildlife species. These lands hold deep cultural, spiritual, and subsistence value for our people. Effective wildlife law enforcement is essential to protecting these resources, preserving traditional practices, and ensuring that wildlife is managed sustainably for future generations.

The Navajo Nation employs approximately 200 natural resource management personnel across various programs, including wildlife conservation, forestry, range management, and environmental protection. These professionals are critical to the stewardship of our lands; however, there remains a growing need for trained wildlife law enforcement officers who can support and complement these efforts through effective enforcement and community engagement.

Tribal nations face ongoing challenges in meeting their wildlife law enforcement needs. There is a critical demand for officers who are trained not only in natural resource management and law enforcement practices, but also in tribal sovereignty, cultural values, and the complexities of jurisdiction across tribal, federal, and state systems. Recruiting and retaining individuals with this unique combination of skills continues to be a significant challenge for the Navajo Nation and other tribes and pueblos.

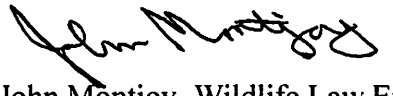
The establishment of a dedicated undergraduate program in Wildlife Law Enforcement at New Mexico State University would provide an important and timely solution to these challenges. This program would prepare students with the knowledge and practical experience necessary to serve as effective wildlife law enforcement officers in tribal communities. It would also create meaningful educational and career pathways for Native American students who wish to serve their own nations, strengthening local capacity and leadership in natural resource protection.

Such a program would be of great value not only to the Navajo Nation, but also to the many tribes and pueblos throughout New Mexico. By developing a skilled and culturally informed workforce, this initiative would enhance the protection of wildlife resources, support intergovernmental collaboration, and contribute to the long-term stewardship of lands that are vital to our communities.

We strongly support this proposed program and believe it will have lasting benefits for tribal nations and the state as a whole.

Thank you for your consideration of this important initiative.

Sincerely,



John Montjoy, Wildlife Law Enforcement Manager
Navajo Nation Division of Natural Resources
Navajo Nation Department of Fish and Wildlife

MESCALERO APACHE TRIBE

MESCALERO CONSERVATION LAW ENFORCEMENT DEPT.
P.O Box 299 Mescalero, N.M 88340
278 Pine Street (Physical Address)
Phone (575) 464-9323/9324 Cell (575) 973-5601 fax (575) 464-9527
Email: tcervantes@mescaleroapachetribe.com

To Whom It May Concern,

On behalf of the Mescalero Apache Tribe, I am writing to express our strong support for the development of a new undergraduate program in Wildlife Law Enforcement within the Department of Fish, Wildlife and Conservation Ecology at New Mexico State University.

The Mescalero Apache Tribe manages lands that are rich in wildlife and natural resources, which are central to our culture, traditions, and way of life. Protecting these resources requires a strong and effective wildlife law enforcement presence to ensure compliance with applicable laws, prevent illegal activities, and promote responsible stewardship of the land.

Across New Mexico, including within tribal nations, there is an increasing need for well-trained wildlife law enforcement professionals. These individuals must possess a unique combination of skills, including knowledge of natural resource management, law enforcement training, and an understanding of the cultural and jurisdictional considerations that are especially important in tribal communities.

The proposed undergraduate program at New Mexico State University would play a critical role in addressing this need. By providing students with both academic preparation and practical training in Wildlife Law Enforcement, the program would help develop a workforce capable of protecting wildlife resources and supporting conservation efforts across the state. It would also create valuable opportunities for Native American students to pursue careers that directly benefit their communities and contribute to the stewardship of tribal lands.

We believe this program will not only strengthen wildlife law enforcement capacity in New Mexico, but also foster collaboration among state, federal, and tribal agencies. The Mescalero Apache Tribe strongly supports this initiative and encourages its development as an important investment in the future protection of our natural resources.

Thank you for your consideration of this important proposal.

Sincerely,

Conservation Chief Tyner R. Cervantes

Tyner R. Cervantes

May 20, 202x

Dr. Martha Desmond
Department Head and Regents Professor
New Mexico State University Department of Fish, Wildlife and Conservation Ecology
Knox Hall, 132
2980 South Espina St.
Las Cruces, NM 88003

On behalf of the Dona Ana County Associated Sportsmen (DACAS), we support approval of the proposed new wildlife degree program in New Mexico State University's Department of Fish, Wildlife and Conservation Ecology. The following paragraphs explain the reasons for our support.

It is our understanding that many students interested in wildlife law enforcement seek an option beyond the traditional Fish, Wildlife and Conservation Ecology program, which focuses on wildlife and aquatic ecology and management. Because the university does not currently offer that pathway, some students enroll in programs with a stronger law enforcement emphasis. We believe that combining the existing Wildlife and Conservation Ecology major with courses in Criminal Justice and Philosophy would create a clear pathway for these students and help retain them in the current program.

Although New Mexico has one similar program—the Bachelor of Science in Forest/Wildlife Law Enforcement at Western New Mexico University—it has not met statewide workforce demand. The proposed program would help prepare graduates for careers in natural resource law enforcement across New Mexico. Potential employers include:

- New Mexico Department of Wildlife
- U.S. Fish and Wildlife Service
- Bureau of Land Management
- U.S. Forest Service
- Bureau of Indian Affairs
- Tribes and Pueblos across the State

The program would also address staffing shortages in this field.

We are encouraged that this program has the support of leadership at the New Mexico Department of Wildlife, NMSU's Departments of Criminal Justice and Philosophy, whose courses are central to the degree, and Western New Mexico University.

We believe this proposed degree program would significantly strengthen wildlife and natural resource management. We respectfully urge its prompt approval and stand ready to support this effort in any way we can.

Respectfully,
John Cornell, President, DACAS

BACKCOUNTRY
HUNTERS & ANGLERS

13 May 2026

Martha Desmond, Department Head
Department of Fish, Wildlife and Conservation Ecology
New Mexico State University

Dear Dr. Desmond,

On behalf of the New Mexico Chapter of Backcountry Hunters & Anglers, we write to express our strong support for the development of a new wildlife law enforcement program within the Department of Fish, Wildlife and Conservation Ecology at New Mexico State University.

As an organization dedicated to conserving public lands, waters, and wildlife, we recognize that effective wildlife law enforcement is a cornerstone of sound conservation. Conservation officers serve not only as protectors of our natural resources, but also as educators and community partners who ensure that hunting, fishing, and outdoor recreation remain sustainable for future generations.

New Mexico's diverse landscapes require a well-trained and knowledgeable cadre of professionals capable of addressing increasingly complex challenges. These include poaching, habitat degradation, and human-wildlife conflict. Establishing a dedicated academic pathway focused on wildlife law enforcement will help prepare the next generation of officers with the ecological understanding, legal knowledge, and field skills necessary to meet these demands.

We are particularly encouraged by the opportunity for this program to integrate science-based conservation principles with practical enforcement training. Graduates who understand both wildlife biology and the legal frameworks that protect these resources will be uniquely positioned to serve the public and uphold New Mexico's conservation legacy.

Additionally, such a program has the potential to strengthen partnerships between academic institutions, state agencies, and nonprofit organizations like ours. We would welcome opportunities to collaborate through guest lectures, field experiences, and mentorship to help students gain real-world perspective from the hunting and angling community.

We believe New Mexico State University is well-positioned to lead in this area, and we fully support your efforts to establish and grow this important program.

Yours in Conservation,

Katie DeLorenzo, Western Field Director
Backcountry Hunters & Anglers

22 May 2026

Dear Dr. Desmond:

We, the undersigned organization representing wildlife conservation, hunting, angling, outdoor recreation, habitat stewardship, and natural resource advocacy, strongly support the proposed BS in Wildlife Law Enforcement Degree at New Mexico State University.

The establishment of this program represents an important investment in the future of wildlife conservation and natural resource protection in New Mexico and throughout the Southwest. Conservation law enforcement officers serve a critical role in protecting wildlife populations, preserving public lands and waters, combating poaching and illegal trafficking, enforcing habitat and environmental regulations, and ensuring the responsible use of our shared natural resources.

As an organization dedicated to conservation and the outdoor traditions of hunting and fishing, we recognize the increasing need for highly trained professionals who possess expertise not only in law enforcement, but also in wildlife management, conservation science, public engagement, and outdoor ethics. The proposed degree program will help prepare the next generation of officers and conservation professionals with the specialized education and practical skills needed to meet these challenges.

This program also creates meaningful opportunities for students in New Mexico by providing a direct pathway into careers with state and federal wildlife agencies, conservation organizations, public land management agencies, and related fields. In doing so, New Mexico State University will strengthen the workforce needed to sustain wildlife resources, support rural communities, and preserve outdoor traditions for future generations.

We further believe this degree program will enhance collaboration between higher education institutions, wildlife agencies, conservation organizations, and the sporting community. By combining academic instruction with applied field experience and partnerships with professionals in the field, the program can become a model for wildlife law enforcement education in the region.

We respectfully encourage university leadership, state officials,

and relevant stakeholders to support the development and implementation of the Wildlife Law Enforcement Degree Program at New Mexico State University.

Thank you for your consideration and for your commitment to conservation education and public service.

Thank you

Joshua Lucero
SCI Northern New Mexico Chapter
President
575-607-0061



LIBRARY IMPACT STATEMENT New Program Proposal BS in Wildlife and Law Enforcement
LIBRARIAN'S ASSESSMENT
The Collections Coordinator, along with the Associate Dean of NMSU Library, will complete this form as requested, assessing library materials and collections as detailed below, returning.

Program: New Program Proposal BS in Wildlife and Law Enforcement
Department, College: ACES (Wildlife) & Arts & Sciences (Criminal Justice)
To: Faculty Member: Martha Desmond
Date returned to Faculty: *June 11, 2026*
From: Librarian Completing Assessment: Katherine Terpis, Associate Dean
Collection Coordinator: Mariaelena De la Rosa
Through: Dean Comerford, NMSU Library

Assessment of:
- Suitability of existing library resources;
- New library resources required to support the program;
- Information skills education required by the students; and
- Funds needed for library materials and services.

1. See below for the chart of the NMSU Library's holdings of Wildlife and Criminal Justice Subjects. Total holdings—104,532.

LC Call Number Categories

Category	LC Call Number Range	NMSU Holdings
Animal Culture	SF 402 – 810.7	5,602
Conservation of Natural Resources	S 900 – 954	886
Criminology	HV 6001 – 8069	16,681
Criminology – Investigations	HV 8073 – 9960	8,046
Economics – Land Use & Land Tenure	HD 101 – HD 1341	523
Ethics	BJ 1 – 1578	4,924
General Philosophy	B 1 – 5802	18,980
Natural History & General Biology	QH 75 – 549	21,148
Wildlife Laws	KF 5640 – 5646	70
Zoology	QL 81.5 – 950	27,672
Total		104,532

For this program, 20 databases provide scholarly research content to support students' research needs. See the table below.

Databases by Provider

Database	Provider
Academic Search Ultimate	EBSCO
AgEcon Search	Open Access
Agriculture & Environmental Science Collection	ProQuest
Criminal Justice Abstracts with Full Text	EBSCO
Criminal Justice Collection	Gale
Environment Abstracts	ProQuest
Environment Complete	EBSCO
Environmental Engineering Abstracts	ProQuest
Food and Agriculture Organization of the United Nations	Open Access
GreenFILE	EBSCO
Gymnosperm Database	Open Access
Homeland Security Digital Library	U.S. Dept. Homeland Security
National Agricultural Library Digital Collections (NALDC)	Open Access
Nexis Uni	LexisNexis
Plant Health Exchange	Open Access
PLANTS Database	Open Access
PubAg	Open Access
SEARCH (U.S. National Agricultural Library)	Open Access
Sustainability Science Abstracts	ProQuest
War and Terrorism Collection	Gale

2. NMSU Library provides access to the following core journals (see below) that support the curriculum and the research needs of students and faculty in this program.

Title	Print Holdings	Electronic Subscription	Aggregator Access	Notes
Animal Conservation	—	Wiley (1998–current)	—	—
Avian Conservation and Ecology	—	DOAJ (2005–current)	—	Open Access
Biodiversity and Conservation	—	—	Energy & Power Source (2011–); Environment Complete (2011–); ProQuest Ag & Env Sci	—

			(1997–); Springer (1997–2010)	
Biological Conservation	v.1 (1968/69)–v.114 (2003)	Portico (2005–2020)	—	Publication ceased
BioScience	v.30 (1980)–v.53 (2003)	OUP (2010–)	Multiple: Env Complete, JSTOR, MasterFILE, etc. (1964–)	1-year embargo; JSTOR 4-year
Canadian Journal of Fisheries & Aquatic Sciences	v.37 (1980)–v.60 (2003)	—	Academic Search, Env Complete (2001–); NRC (1996–2010)	—
Conservation Biology	v.1 (1987)–v.16 (2002)	Wiley (1997–)	JSTOR (1987–)	6-year embargo
Conservation Genetics	—	Springer (2000–2010)	Env Complete (2011–)	1-year embargo
Conservation Science and Practice	—	—	—	Open Access (2019–)
Copeia / Ichthyology & Herpetology	—	—	JSTOR, Academic Search, Biodiversity Heritage	Title changed in 2021
Diversity and Distributions	v.7 (2001)–v.8 (2002)	Wiley (1998–)	Academic Search, DOAJ (2019–), JSTOR	Open Access (2019–)
Ecography	—	Wiley (1997–2010)	DOAJ (2020–), JSTOR	OA 2020; JSTOR 8-year embargo
Ecological Applications	v.1 (1991)–v.26 (2016)	Wiley (1997–)	JSTOR	3-year embargo
Ecology	v.1 (1920)–v.96 (2015)	Wiley (1997–)	JSTOR	3-year embargo
Ecosphere	—	—	—	Open Access (2010–)
Ecology of Freshwater Fish	—	Wiley	—	—
Ecology Letters	—	Wiley	Aggregator (1998–)	—
Freshwater Biology	v.1 (1971)–v.46 (2001)	Wiley (1997–)	—	—
Freshwater Science	—	—	DOAJ	Open Access (2023–)

Frontiers in Ecology & Environment	2009–2010	—	JSTOR	—
Global Ecology & Conservation	—	—	DOAJ (2014–)	—
Herpetologica	v.65 (2009)–v.66 (2010)	—	—	—
Herpetological Conservation Biology	—	—	Free E-Journals (2006–)	—
Human Dimensions of Wildlife	—	—	Academic Search, DOAJ, PubMed	—
Hydrobiologia	v.55 (1977)–v.65 (1979)…	Springer (1997–2010)	Academic Search, Env Complete	—
Ibis	Extensive print run (1907–2002)	Wiley	DOAJ	—
Journal of Animal Ecology	—	—	JSTOR (1919–1933)	—
Journal of Applied Ecology	—	Wiley (1998–2010)	JSTOR (1964–)	6-year embargo
Journal of Arid Environments	v.6 (1983)–v.55 (2003)	—	Portico (2010–2020)	—
Journal of Avian Biology	—	Wiley (2000–)	Multiple + DOAJ (2022–)	8-year embargo (JSTOR)
Journal of Fish & Wildlife Management	—	—	Env Complete, Gov Docs	—
Journal of Herpetology	v.43 (2009)–v.46 (2012)	—	JSTOR, Academic Search	4-year embargo
Journal of Mammalogy	v.90 (2009)–v.95 (2014)	OUP (1996–)	JSTOR, Biodiversity Library	—
Journal of Wildlife Diseases	v.6 (1970)–current	—	Free E-Journals	18-month embargo
Journal of Wildlife Management	Microfilm (1937–1960)	Wiley	JSTOR (1937–)	3-year embargo
Journal of Raptor Research	v.20 (1986)–v.44 (2010)	—	Biodiversity Library, SORA	—

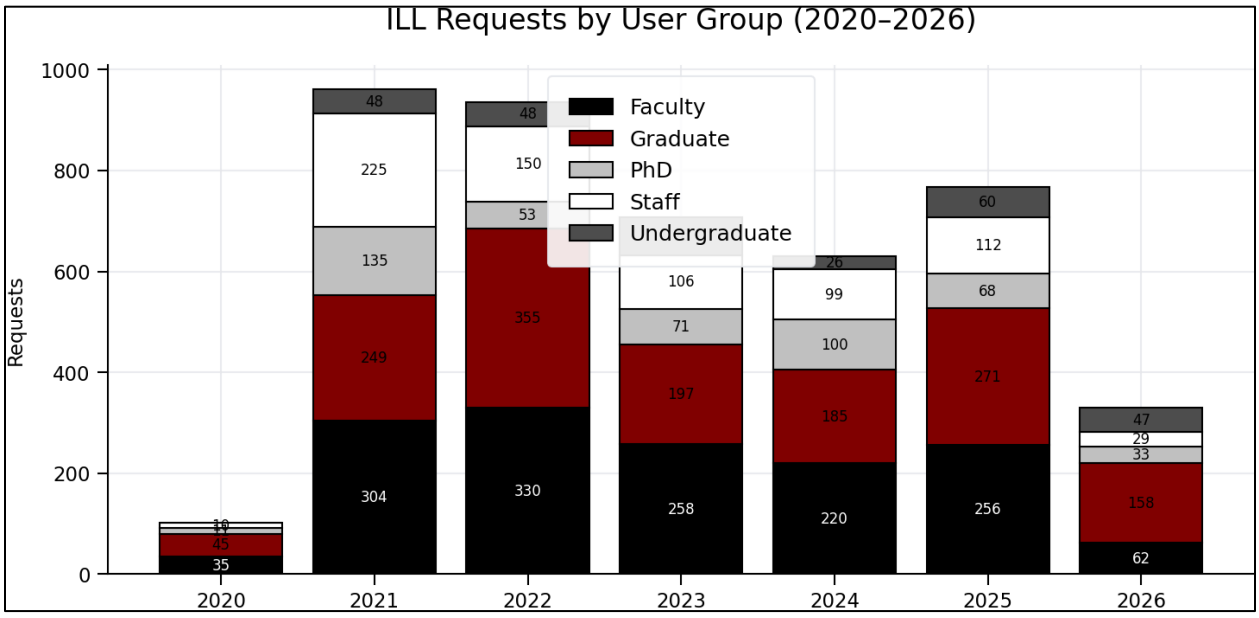
Mammal Review	—	Wiley (1996–)	Academic Search, Env Complete	1-year embargo
Mammalian Species	—	Springer (1997–2010)	—	—
Molecular Ecology	v.4 (1995)–v.11 (2002)	Wiley (1997–)	—	—
Nature Ecology & Evolution	—	—	LexisNexis (2023–)	—
North American Journal of Fisheries Management	v.1 (1981)–v.24 (2004)	Wiley (1996–)	Taylor & Francis (2011–2017)	—
Oecologia	—	Springer (1997–2018)	JSTOR, Env Complete	4-year embargo
Oikos	—	Wiley (2000–2010)	JSTOR (1949–)	8-year embargo
Ornithological Applications (Condor)	—	—	Multiple sources	Title change
Ornithology	—	—	Env Complete (2021–)	1-year embargo
Oryx	—	Cambridge OA (2021–)	DOAJ (2021–)	Open Access
PLoS One	—	—	DOAJ, PubMed (2006–)	Open Access
PNAS	Microfilm + print (1915–2003)	—	JSTOR, PubMed	6-month embargo
Population Ecology	v.42 (2000)–v.45 (2003)	Springer, Wiley	Env Complete, Energy Source	1-year embargo
Science	Various formats (1949–2012)	—	JSTOR, Academic Search	—
Southwestern Naturalist	v.1 (1956)–v.65 (2020)	—	JSTOR, Academic Search	4-year embargo
Transactions of the American Fisheries Society	1902–2004 (print/microfilm)	Wiley	Biodiversity Library	—
Water Research	1967–2003 (print)	Portico (2005–2020)	—	—
Western North American Naturalist	2000–2021	—	Academic Search, Free E-Journals	2-year embargo

Wildlife Biology	1995–2005	Wiley OA (1997–)	DOAJ, Academic Search	—
Wildlife Society Bulletin	—	Wiley OA (2023–)	DOAJ, JSTOR	Former title noted
American Journal of Criminal Justice	1999–2007	Springer Nature Hybrid	Criminal Justice Abstracts with Full Text	1-year embargo
British Journal of Criminology	—	Oxford Academic	Criminal Justice Abstracts with Full Text	
Crime & Delinquency	2000-2004	Sage	Criminal Justice Abstracts with Full Text	
Journal of Crime and Justice	—	Taylor & Francis	Criminal Justice Abstracts with Full Text	1-year embargo
Journal of Criminal Justice	—	Elsevier	Portico Archive 2005-2020	
Journal of Research in Crime & Delinquency	1999-2004	Sage	Lexis Nexis Uni	

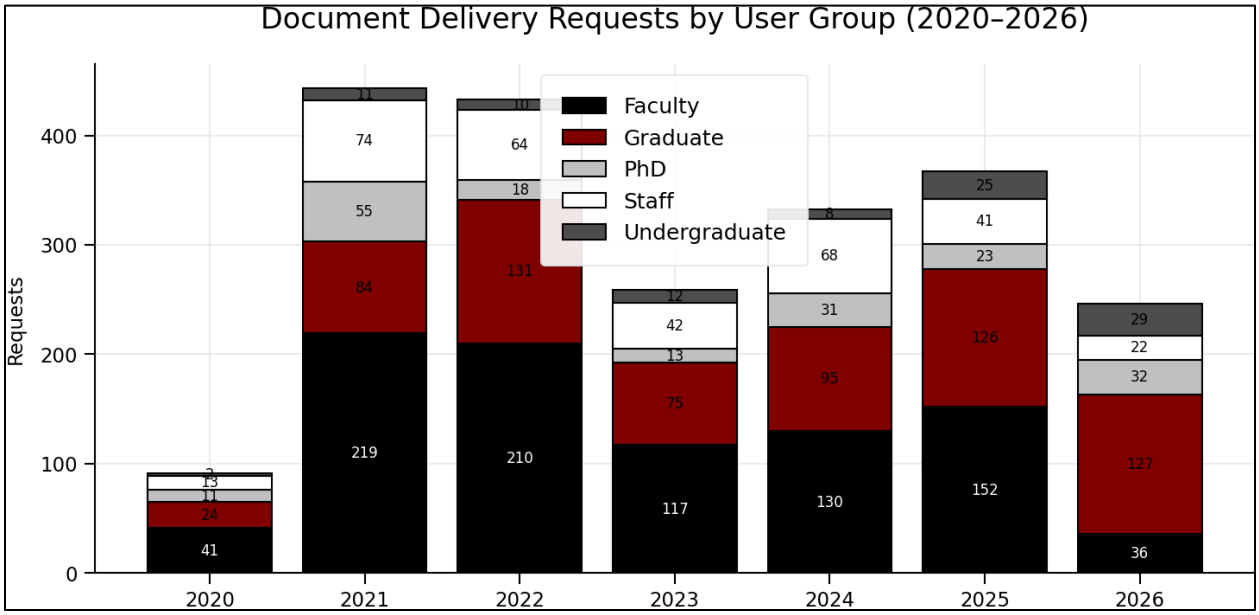
3. What new resources are required to support the program (including media, electronic, or other non-print materials)?

No new resources are indicated to support this new program proposal. Additionally, we offer Information Delivery Services (IDS) that provide access to research content, whether owned by NMSU Library or another library/organization. IDS also provides electronic or home delivery to distance education students and faculty. Stats are provided (see next page) on how we currently support the ACES Fish, Wildlife, and Conservation Ecology program and the Criminal Justice Program. Upon review of the statistics, it appears that the faculty and graduate students utilize these services more than staff and undergraduates.

Stats for Document Delivery & ILL 2020-May 1, 2026

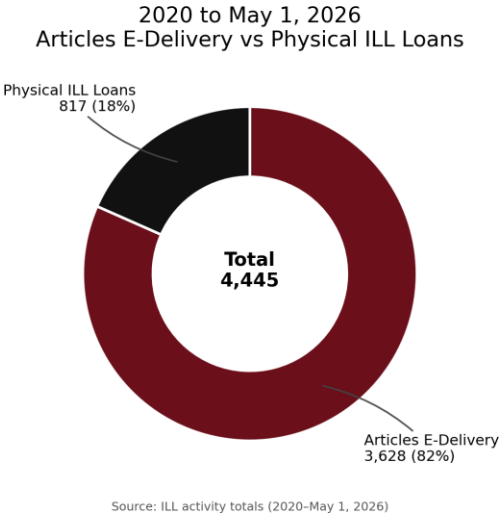


*end date of 5/1 for stats reporting for this report.



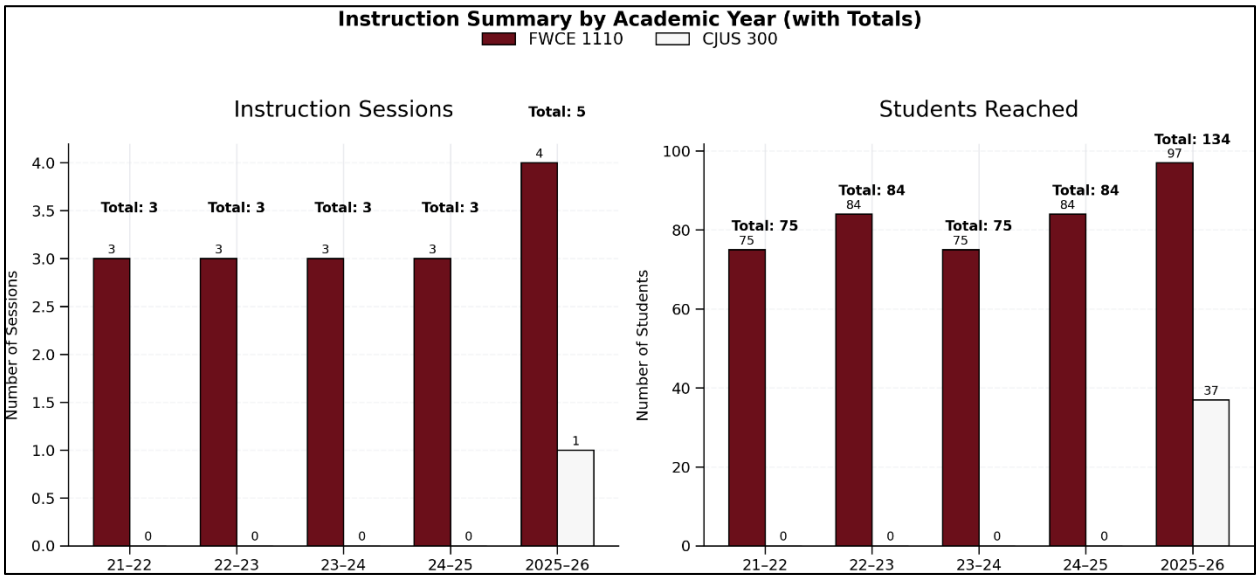
*end date of 5/1 for stats reporting for this report.

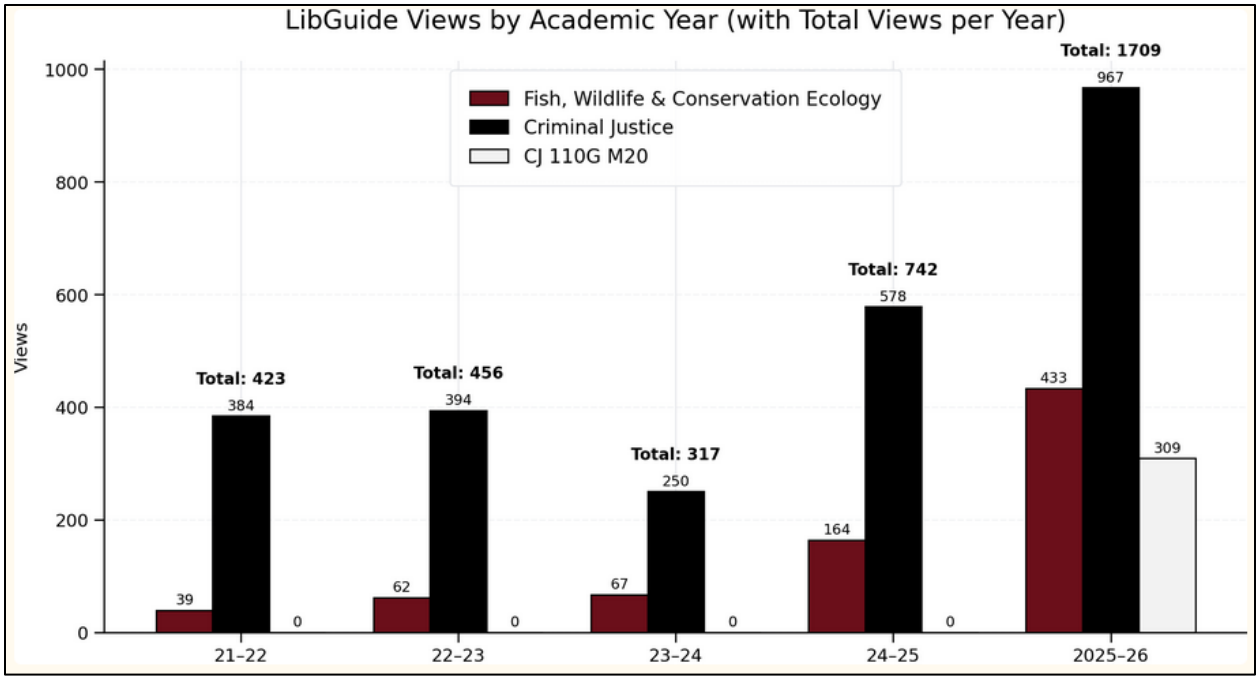
E-delivery of ILL article loans and physical ILL loans
This chart for those in these programs reflects the percentage of e-delivery of ILL article loans (82%) and the smaller percentage of physical ILL loans (18%).



4. What information mastery sessions will be required for the students?

Faculty members teaching in this program may submit requests for information literacy sessions led by a faculty librarian.





5. No new resources are indicated for this new program proposal. For additional resources, faculty in this department may suggest purchasing new materials to support the program. Larger purchase proposals can be submitted to the library's collection development team when funds allow.

Board of Regents Meeting
Meeting Date: October 1, 2026
Agenda Item Cover Page

Agenda Item # X.B

☒ Action Item
☐ Consent Item
☐ Informational Item

Presented By:
Allen Bottorff
Vice President for Admin. & Finance/CFO

Wayne Savage
Executive Director, Arrowhead Park

Lisa Henderson
General Counsel

Agenda Item:

Request for three supplemental funding sources for the Arrowhead Studio

Requested Action of the Board of Regents:

Approval of all three supplemental funding components to complete the Arrowhead Studio

Executive Summary:
Three supplemental funding components are proposed to produce a fully functioning, commercially competitive facility. These include approval of a county MOU, a city MOU, and a University contribution in the amount of $1.3 million respectively for a total of $3.9 million.

References:
Count MOU, City MOU, Slide Presentation

Prior Approvals:

The County has approved; the City and NMSU have arrived at agreed language; Arrowhead has approved.

Agenda Item Approved By:

Each office may determine required signatures (if any). All items should be routed through the President's Office, University General Counsel, or the Secretary of NMDA as appropriate.

Lisa Henderson

_____ 09/21/2026

Lisa Henderson Date
General Counsel and Chief Legal Officer

NMSU BOARD OF REGENTS

October 1, 2026

MOTION TO APPROVE THREE SUPPLEMENTAL FUNDING COMPONENTS

FOR THE ARROWHEAD STUDIO COMPLETION

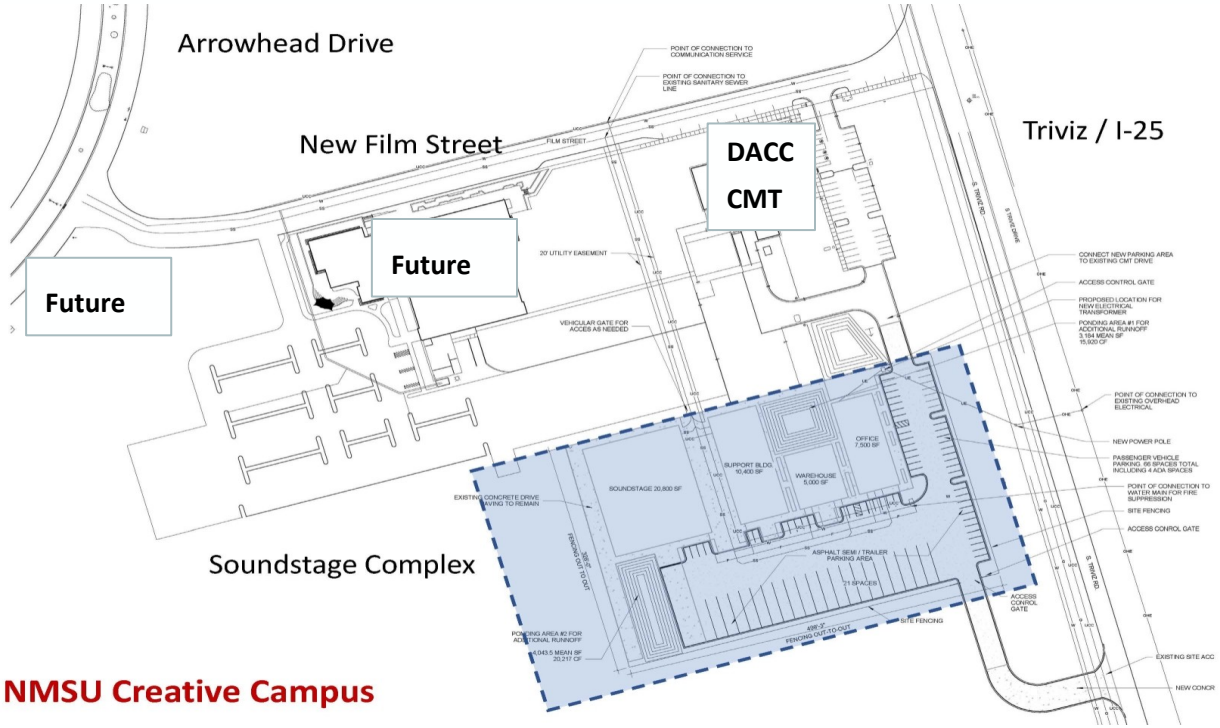
I move to approve all three supplemental funding components presented today to complete the Arrowhead Studio construction to produce a fully functioning, commercially competitive facility as follows:

1. Approval of the MOU between the Regents and Dona Ana County for the County's contribution of $1.3 million and providing the President with authorization to sign;
2. Approval of the MOU between the Regents and the City of Las Cruces for the City's contribution of $1.3 million and providing the President with authorization to sign; and
3. The University's contribution of $1.3 million contingent upon execution of a mutually satisfactory loan agreement between Arrowhead Center, Inc. and NMSU and providing the President with authorization to sign.

Arrowhead Studios Project Review

Foundations / History

- Core component of strategic statewide 2022 Media Arts Collective (MAC) initiative
- Aligns with NMSU / ACI Creative Campus initiative
  - Unique colocation of academics, industry, entrepreneurship
  - Positions NMSU and DACC creative media programs with an attractive asset to recruit and retain students
  - Career opportunities for graduating students
  - Paid student internships on sets of commercial film and TV productions (10-12 interns per production)
  - Local/regional economic impact
- NMSU / NM EDD agreement key terms:
  - 10 yr agreement
  - Termination language for insufficient utilization
  - Soundstage complex to be leased to a commercial operator

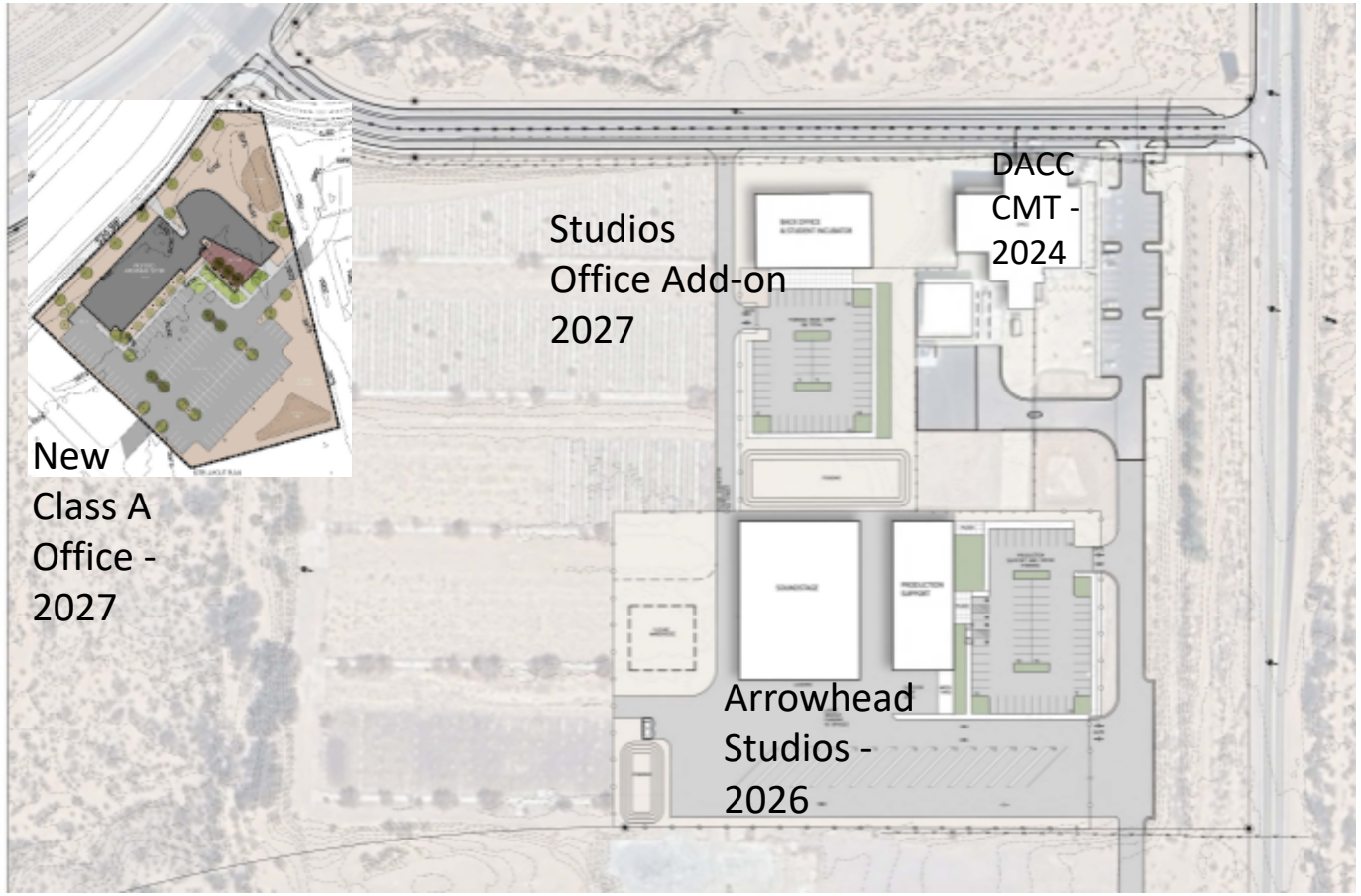


NMSU Creative Campus

Arrowhead Studios Project Review

Current Status

- CMI and KRWG buildings have been removed from the plan
- Film Street complete summer 2024
- DACC CMT operational fall 2024
- Soundstage project breaks ground July 2026
- Private developer working to build a 40,000 sf commercial Class A office at Arrowhead Drive and Film Street – new “tech office” center for region
- 2026 Legislative session provided $8 million for additional office for Studios
    - Legislative industry initiative
- MAC very active with training, classes locally
- NMSU issued RFP for operator; signed LOI with Automatic Entertainment



Arrowhead Studios Project Review

Supplemental Funding Requirement

- Base project funding from NM EDD will complete site development, building shells, minimal occupancy requirements for structures and site
  - Warehouse has been eliminated due to budget constraint
- Critical interior finishes / components require additional funds
  - Rigging/lighting grid, interior finish out
  - WIFI / Security / Building Automation Systems
  - Mill Space office, paint room, laundry
- Additional $3.9 million in funding to complete
  - No additional funding available via NM EDD
- Supplemental funding proposal to seek support from key community stakeholders to close funding gap
  - Dona Ana County, City of Las Cruces, NMSU……$1.3 million each
- County has voted to approve MOU; ready for NMSU Regents signature
- City MOU is before the Board

Arrowhead Studios Project Review

Supplemental Funding Breakdown

- **Bid Lot 1 (BL1)**
  - Soundstage building office interior finish out
- **Bid Lot 2 (BL2)**
  - Soundstage Catwalk / Lighting – Rigging Grid
- **Bid Lot 3 (BL3)**
  - Production Support Office and Mill Space interior finish out
- Communications / WIFI / Security
- Warehouse
  - Seeking to add back to scope per original Operator RFP
- Additional BL1 / BL2 / BL3 Costs
- Contingency

$3.9 Million Supplemental (DAC, CLC, NMSU)				
Supplemental Funds Allocation				
County Funds			**Costs**	**Funding**
BL1	$	575,000		
BL3	$	876,000		
County Total			**$ 1,451,000**	$ 1,300,000
CLC Funds				
BL2	$	948,000		
Comms/WIFI	$	500,000		
CLC Total			**$ 1,448,000**	$ 1,300,000
NMSU Funds				
BL 1 / 2 / 3 Costs	$	299,000		
Warehouse	$	600,000		
Misc/Cont.	$	102,000		
NMSU Total			**$ 1,001,000**	$ 1,300,000
Total Supplemental Funding			**$ 3,900,000**	**$ 3,900,000**

BL = Bid Lot

Arrowhead Studios Project Review

Supplemental Funding Requirement

- Without supplemental funding:
  - Limited functionality, not a “full service” soundstage facility
  - Cost of production operations higher due to less permanent infrastructure
  - Negative impact to commercial attractiveness for productions, profitability
  - Potential risk of loss of operator

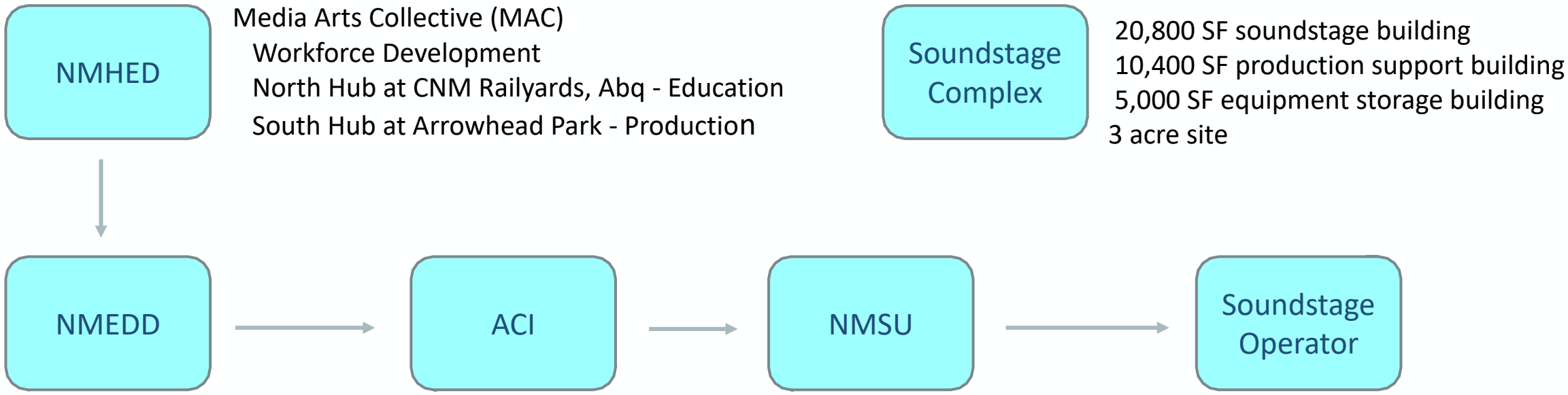
Arrowhead Studios Supplemental Funding Request

Request support for approval of all three supplemental components

• MOU with County	$1,300,000
• MOU with City	$1,300,000
• Agreement between NMSU and ACI	$1,300,000
Total Supplemental Funding	**$3,900,000**

- Without supplemental funding:
  - Limited functionality, not a “full service” soundstage facility
  - Cost of production operations higher due to less permanent infrastructure
  - Negative impact to commercial attractiveness for productions, profitability
  - Potential risk of loss of operator

Commercial Soundstage Collaboration for NMEDD, NMSU, and ACI



Arrowhead Studios Supplemental Funding Request

Economic Benefit of the Commercial Soundstage Collaboration

- Increased soundstage capacity for New Mexico at point of high demand
  - Production opportunities are being turned away with NM stages at capacity > 80% (NM Film office, industry operators)
- First industry standard soundstage facility south of Albuquerque to attract film and TV production to this region
- Increased job base, wages in southern New Mexico
  - Goal is to develop minimum 200 new permanent jobs in the region
- Direct spend for southern New Mexico businesses and NMGRT increase
  - Budget for typical TV series production includes direct spend of about $12-15 million over 6-8 months
  - Film productions see direct spend in the range of about $4 million over 2-3 months
- Anchor to attract other creative digital media ecosystem companies to the Park and the region

Arrowhead Studios Supplemental Funding Request

Risk Mitigation

- During the Development Phase, NMSU will secure a lease operator to prepare for Day 1 operation
- Lease operator contract will have minimum occupancy performance language and appropriate termination clauses
- If the Soundstage does not achieve 30% occupancy over any 3-year period, the 10-year Soundstage agreement has termination language to protect NMSU from un-funded cost burdens:
  - The agreement with NMEDD will terminate, and the facility can be converted to full academic use
- At end of the 10-year period the agreement will terminate and Soundstage use will be fully determined by NMSU
  - NMSU will have options to:
    - Continue operating as commercial soundstage, or
    - Convert to full academic use
  - Ownership will transfer to NMSU

AGREEMENT BETWEEN THE CITY OF LAS CRUCES, THE REGENTS OF NEW MEXICO STATE UNIVERSITY, AND ARROWHEAD CENTER, INC. FOR THE DEVELOPMENT OF A SOUNDSTAGE COMPLEX

THIS AGREEMENT is entered into on the "Effective Date" herein by and between the City of Las Cruces (the "City"), a New Mexico municipal corporation, the Regents of New Mexico State University ("NMSU"), a New Mexico institution of higher education, and Arrowhead Center, Inc. ("ACI"), a research park corporation authorized by the University Research Park and Economic Development Act, each of which is a "Party" to this Agreement and together are the "Parties" to it.

RECITALS

WHEREAS, pursuant to a certain Soundstage Development Agreement by and between NMSU, ACI, and the New Mexico Economic Development Department ("EDD"), which Soundstage Development Agreement is incorporated herein by reference, EDD provided funding for the development of a film soundstage complex and related facilities (the "Project") at real property owned by NMSU at its Arrowhead Park location; and

WHEREAS, as goals for the Project, it will advance the local and statewide economies by promoting the film and media industries and create educational and employment opportunities, including for the City's residents, related to film and media; and

WHEREAS, additional funding is required to complete the Project, including for interior improvements and related work necessary to make the contemplated film and media production facilities operational for their intended uses; and

WHEREAS, the City desires to provide such additional funding to meet the needs of the Project; and

WHEREAS, the Parties agree that by providing such additional funding on the terms and conditions of this Agreement, the City shall advance completion of the Project and the goals of the Project benefitting the residents of the City;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein, the receipt and adequacy of which are acknowledged, the Parties agree as follows:

AGREEMENT

1. Recitals. The foregoing Recitals are a material part of this Agreement and are incorporated herein by reference.

2. Term. The duties, responsibilities, and obligations of this Agreement will begin on the Effective Date and continue in effect until the latest of: (i) all obligations under Article II Development Phase of the Soundstage Development Agreement are completed to the satisfaction of the City; (ii) all obligations under Article II Development Phase of the Soundstage Development Agreement are completed to the satisfaction of EDD; iii) the Soundstage Development Agreement is terminated under Article IV Termination,; or (iv) this Agreement is terminated according to its terms.

3. City Responsibilities.

a. The City shall, within thirty (30) days of the Effective Date, provide to NMSU a one-time payment (the "City Contribution") of One Million Three Hundred Thousand Dollars ($1,300,000.00) to aid in completing the Project and ensure that the Project is positioned for operational and financial success. As a condition of the City's contribution, the City has reviewed, recommended, and approved certain design changes to the Project scope including the studio soundstage, the production office, the construction mill, and other studio infrastructure as listed in Exhibit A, and ACI agrees to fully implement said changes in the Project. The City has approval of the final floor plan, to include specifications of the studio soundstage, production offices, construction mill, and other key studio infrastructure. For the avoidance of doubt, approval under this section shall be in the form of a writing signed by the City's Economic Development Director and may be obtained prior to the Execution Date of this Agreement.

b. As described in greater detail herein, the City shall receive, review, and give feedback on the annual written reports (See Section 4(c)) prepared by NMSU and ACI before it is presented to the governing body of the City.

4. NMSU Responsibilities.

a. NMSU shall manage the use of the City Contribution for the Project by reviewing requests for disbursement by ACI. By this provision, NMSU agrees that it shall conduct all due diligence reasonably necessary to assure itself that disbursements of the City Contribution materially advance the goals of the Project described herein and, unless otherwise approved by the City, are exclusively used for the uses (the "Project Uses") identified in Exhibit "A" attached to this Agreement, which is incorporated herein by reference.

b. NMSU shall, in cooperation with ACI, provide quarterly reports to the City's Economic Development Department describing all uses of the City's Contribution for the preceding month and including, without limitation, a summary of construction progress against the Project Uses, invoices for which the City's Contribution was used as

payment, and a balance sheet representing withdrawals of the City's Contribution against discrete work authorized. In addition, NMSU shall comply with all written requests for information from the City, using commercially reasonable means and subject to applicable law, for information related to the City's Contribution, the Project Uses, and NMSU's use of the City's Contribution under this Agreement.

c. NMSU shall, in cooperation with ACI and subject to the availability of information within NMSU's possession or reasonably obtainable from ACI, prepare an annual written progress report and present the said report to the governing body of the City during a work session of the governing body every July beginning in 2026 and continuing until completion or termination of the Project, with a final report expected according to current estimates in July 2027. At a reasonable time prior to governing body work session, NMSU shall provide the annual written reports to the City's Economic Development Department for review and comment. The written reports shall explain the development status of the Project, including: (i) all requests for and disbursements of the City Contribution; (ii) construction progress (until complete) for uses of disbursed City Contribution and for the Project generally; and (iii) financial expenditures for the Project.

d. Upon the City's written request, NMSU shall have sixty (60) days to decide whether it shall recover any of the City's Contribution expended in violation of the terms of this Agreement or any contract or subcontract for development work to complete the Project, including by civil proceedings as necessary. If NMSU refuses the City's request or otherwise fails to take actions in satisfaction of its duties hereunder, NMSU and ACI shall be deemed to assign to the City all rights belonging to either of NMSU or ACI to seek up to the amount of the City's Contribution that has been lost pursuant to the violation.

e. NMSU shall abide by the Soundstage Development Agreement such that any material breach thereof, during the Development Phase only, shall be a material breach of this Agreement enforceable by any of the Parties hereto.

5. ACI Responsibilities.

a. ACI shall determine the best uses for the City Contribution and, consistent with those determinations, prepare and send to NMSU written requests for disbursement of the City Contribution, the said requests for disbursement giving reasonably sufficient detail necessary to explain the need for the disbursement for one or more of the Project Uses. If NMSU approves a disbursement, ACI shall use the funds as described in its request for disbursement to manage, oversee, and complete interior finishes and improvements within the scope of the Project Uses provided by Exhibit A to this Agreement. However, ACI may seek to use the City's Contribution to perform work outside of the Project Uses, provided that ACI or NMSU first obtain the City's written

approval for the work, which approval shall not be unreasonably withheld.

b. ACI shall, consistent with commonly accepted accounting principles, track the City Contribution. ACI's oversight responsibilities include, without limitation, its receipt, management, and use of the City Contribution.

c. ACI shall cooperate with NMSU to prepare and present the monthly reports required by this Agreement and respond to additional requests for information from the City's Economic Development Department.

d. ACI shall cooperate with NMSU to prepare and present the annual reports required by this Agreement.

e. ACI shall abide by the Soundstage Development Agreement such that any material breach thereof shall be a material breach of this Agreement enforceable, during the Development Phase only, by any of the Parties hereto.

6. Records and Audits. NMSU and ACI shall each maintain records, and upon written request of the City promptly provide a complete accounting, of its receipt, management, and use of the City Contribution and other funds for the Project. Records shall indicate, without limitation to additional appropriate accounting metrics, dates, lengths of time, and services rendered. Notwithstanding anything to the contrary, the City shall have the right to audit billings and transactions both before and after payment or transfer of City Contribution funds and contest any billing or portion thereof, if billings or transactions reflect fraud, waste, or excessive billing. The City's payment of the City Contribution under this Agreement does not foreclose the City's right to recover payments for such fraudulent, wasteful, or excessive billings, and each of NMSU and ACI assigns to the City a right coextensive with each of their own to seek such payments up to the amount of the City Contribution from any third party. Each of NMSU and ACI will retain all records for three (3) years after the completion of the Project or its earlier termination.

7. Appropriations and Authorizations. Notwithstanding anything to the contrary herein, the terms of this Agreement are contingent on sufficient appropriations and authorizations being made for the City's performance of this Agreement. If sufficient appropriations and authorizations are not made, this Agreement shall immediately terminate upon written notice by the City to NMSU and ACI. The City's decision as to whether sufficient appropriations and authorizations exist shall be at the City's sole discretion, shall be accepted by NMSU and ACI, and shall be final. NMSU and ACI forever waive and disclaim any claim or right that may arise in whole or in part as a result of a determination by the City, at any time, as to whether sufficient appropriations or authorizations exist.

8. City Access to Facilities. As a condition to the receipt and use of the City Contribution, NMSU and ACI shall give the City's staff and officials access to the completed Project facilities for the City's use in producing media content at low or no cost to the City, as is reasonable in the circumstances upon a written request by the City to use the facilities. If the facilities are currently under lease to a commercial operator, such lease shall require access to the City on the same terms and conditions of this section.

9. Termination.

a. Except as otherwise provided herein, any Party may terminate this Agreement, in whole or in part, by written notice to all other Parties (i) immediately, for reason of a claim of a material breach of this Agreement or Article II Development Phase of the Soundstage Development Agreement; or (ii) upon expiration of the time periods required for dispute resolution procedures under this Agreement, for reason of a material breach of this Agreement or Article II Development Phase of the Soundstage Development Agreement. This Agreement may also be terminated at any time by a written agreement signed by all Parties.

b. Within thirty (30) days of termination, NMSU and ACI shall promptly do all necessary acts to return to the City any unexpended City Contribution.

10. Dispute Resolution. The Parties agree to discuss any disputes or disagreements under this Agreement in good faith. In the event of a claimed material breach of this Agreement, the Party adversely affected may give written notice addressed to the Party or Parties who are claimed to be in breach (copying any Party not claimed to be in breach) and providing a reasonably detailed description of the claimed breach. The Party or Parties claimed to be in breach shall respond in writing to all other Parties within fifteen (15) calendar days of receipt of the written notice to (i) dispute the claim of breach, (ii) give notice of a completed cure, or (iii) give notice that a cure cannot be completed within the time allowed for a written response and provide a reasonable timeline for the completion of the cure not to exceed thirty (30) additional calendar days. Except as otherwise provided in this Agreement, no Party shall have a right to bring legal or equitable claims against any of the others for a breach of this Agreement except after expiration of the time periods provided within this section.

11. Waiver. Except as otherwise provided herein, no waiver by any Party of an obligation, right, or remedy created by this Agreement shall act as a continuing waiver or a waiver of any other obligation, right, or remedy, whether or not of the same or a similar nature or relating to a past, present, or future event or condition, existing, expectant, or contingent. No failure to invoke an obligation, right, or remedy shall act as a waiver for reason of the passage of time or the acceptance, in whole or in part, of another Party's

performance, except when the Party alleged to have waived has acted or failed to act in a manner materially inconsistent with its actual knowledge of the relevant transactions.

12. Assignment. Neither NMSU nor ACI may assign, sell, delegate, or transfer any rights, interests, duties, or obligations under this Agreement without the prior written consent of the City. The City may not assign, sell, delegate, or transfer any rights, interests, duties, or obligations under this Agreement without the prior written consent of NMSU and ACI.

13. No Third-Party Beneficiaries. Except as otherwise provided herein, his Agreement does not, and shall not be construed to, create any right, interest, or claim belonging to a third-party beneficiary.

14. Confidential Information. Any confidential information, not subject to disclosure under the Inspection of Public Records Act or other law or by lawful order of a court or other authority, given to or developed by any Party, including by any of its officials, officers, directors, employees, principals, agents, contractors, subcontractors, independent contractors, or volunteers, in the performance of this Agreement shall be kept confidential and shall not be made available to any individual, organization, or other entity without the prior written approval of the Party that developed the information. For purposes of this section, information is confidential if it is identified in writing as confidential by the Party possessing or providing the information, or if such information would reasonably appear to be material to the substantial interests of the Party possessing or providing the information, including, without limitation, trade secrets, matters of goodwill and public interest, and information relevant to safety or public health; provided, however, that no such information shall be confidential if it is or becomes generally known or publicly available.

15. Compliance with Laws. The Parties shall comply with all federal, state, and local laws, regulations, and ordinances, and with all orders and decrees of courts and tribunals of competent jurisdiction, which in any manner affect the Parties' performance under this Agreement or the Soundstage Development Agreement. By way of illustration and without limitation, the Parties shall comply with all applicable tax, procurement, employment eligibility, ethics, environmental, and anti-discrimination laws.

16. Independent Contractor. Nothing in this Agreement is intended to or shall be deemed to constitute a partnership or joint venture between the Parties. The City is and shall remain an independent entity under this Agreement. None of the Parties, nor any of their respective employees, are or shall be deemed to be employees of any of the other Parties, nor may they bind any of the other Parties in any respect. No Party's employees shall accrue leave, retirement, insurance, bonding, nor any other benefit afforded to the

employees of the other Parties.

17. Status of Employees. Any employee of one of the Parties who provides services under this Agreement shall remain the employee of the person's employer, which shall remain responsible for that employee's salary, fringe benefits, worker's compensation benefits, and unemployment compensation. Any of the Parties' employees who undertake any activities under this Agreement shall remain subject to the supervision of the person's employer.

18. New Mexico Tort Claims Act. The Parties recognize that each is liable only to the extent provided by the New Mexico Tort Claims Act, Sections 41-4-1 to 41-4-29, NMSA 1978, as amended, for the negligence or commissions of that Party's officers, directors, and employees acting within the scope of their employment while acting in the furtherance of this Agreement. The Parties and their respective "public employees," as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity defense, nor any other limitation of liability available under law. No provisions of this agreement are intended to modify or waive any provision of the New Mexico Tort Claims Act.

19. Conflicts of Interest. The City, NMSU and ACI each represent that it has no business, professional, personal, or other interest, including conflicts qualifying under applicable federal, state, and local law, that would conflict in any manner or degree with the performance of its duties and obligations under this Agreement. If any such actual or potential conflict of interest arises the City, NMSU or ACI, as applicable, shall immediately inform the other Parties in writing of such conflict. If, in the reasonable judgement of the alleging Party, such conflict poses a conflict to and with the performance of the other Parties' duties or obligations under this Agreement, or is otherwise a violation of the alleging Party's current policy or ordinances, then the alleging Party may terminate the Agreement immediately upon written notice to the other Parties without liability. Such termination shall be effective upon receipt of the notice.

20. Notice. Any notice which a Party is required or desires to give the other shall be in writing and may be sent by personal delivery (proof of delivery required), by certified mail (return receipt requested), by generally recognized overnight courier (proof of delivery required), or by email (read receipt requested), addressed according to the information set forth below in this Section, or to any other address requested by either Party for itself.

As to the City:	City of Las Cruces Attn: City Manager 700 North Main Street Las Cruces, New Mexico 88001

	citymanager@lascruces.gov
with copies to:	Legal Department Attn: City Attorney 700 North Main Street Las Cruces, New Mexico 88001 cityattorney@lascruces.gov Economic Development Department Attn: Director of Economic Development 700 North Main Street Las Cruces, New Mexico 88001 econdev@lascruces.gov
As to NMSU:	NMSU President's Office PO Box 30001 Las Cruces, NM 80003 President@nmsu.edu
with copies to:	Legal Affairs General Counsel PO Box 30001 Las Cruces, NM 80003 gencounsel@nmsu.edu
As to ACI:	Arrowhead Center, Inc. Executive Director 3655 Research Road Las Cruces, NM 88003 waynes@nmsu.edu

Service consistent with this Section shall be deemed effective on the day of actual delivery (whether accepted, refused, or unsuccessful), as shown by affidavit if by personal delivery, by the addressee's return receipt if by certified mail, by confirmation of the courier if by courier, or by the addressee's read receipt if by email.

21. Governing Law and Venue. This Agreement shall be governed by and construed according to the laws of the State of New Mexico, without regard to rules or principles of conflicts of laws. Any proceeding to enforce, terminate, or modify this Agreement, or relying on this Agreement in any way, shall be brought and maintained exclusively in the

Third Judicial District Court of Doña Ana County, New Mexico. The Parties waive any rights they may have to a different venue.

22. Severability. If any clause or provision of this Agreement is held to be illegal, invalid, or unenforceable by a court of competent jurisdiction, then the clause or provision so held shall be given an interpretation preserving its original intent with maximum permissible force, and in all circumstances the remainder of this Agreement shall remain in full force and effect. However, in the event that either Party can no longer reasonably perform pursuant to the remaining terms, or if the purpose of the Agreement can no longer be carried out by any Party, the Agreement may be terminated upon written notice by any Party, and no damages shall accrue to any Party as a result.

23. Entire Agreement. This Agreement reflects the entire Agreement between the Parties concerning the subject matter herein and incorporates and merges all prior related agreements, covenants, understandings, and undertakings. No such prior agreements, covenants, understandings, or undertakings, oral or written, of the Parties or their agents shall be valid or enforceable unless specifically embodied or incorporated by reference herein.

24. Counterparts. This Agreement may be executed in multiple identical counterparts that together shall constitute an effective whole. A facsimile or image (in "pdf" or other common electronic format) shall be an original for this purpose.

25. Effective Date. This Agreement shall be effective on the date (the "Effective Date") of the last signature affixed below of the Parties' authorized representatives.

[*Signatures on following page*]

IN WITNESS WHEREOF, the Parties have caused this instrument to be executed by their duly authorized representatives on the date of the last signature below.

CITY OF LAS CRUCES

BY: _____
Ikani Taumoepeau
City Manager

_____
Date

APPROVED

BY: _____
Brad Douglas
City Attorney

_____
Date

REGENTS OF NEW MEXICO STATE UNIVERSITY

BY: _____
Dr. Valerio Ferme
President

_____
Date

ARROWHEAD CENTER, INC.

BY: _____
Dr. Winnie Lee
Interim CEO

_____
Date

Exhibit “A”

Agreed Project Uses and Studio Development Plan

This Exhibit “A” is incorporated into and made part of the Memorandum of Understanding (“MOU”) by and among the City of Las Cruces (“City”), the Regents of New Mexico State University (“NMSU”), and Arrowhead Center, Inc. (“ACI”), collectively, the “Parties”.

PURPOSE

The purpose of this Exhibit is to document the agreed-upon uses of the City Contribution (the “Project Uses”) and to confirm the mutual understanding of the Parties regarding the scope and implementation of the studio development project (the “Project”).

COLLABORATIVE AGREEMENT

The Parties acknowledge that they have participated in a series of meetings, discussions, and collaborative planning efforts to define the scope, priorities, and implementation strategy for the Project.

Through this process, the Parties have identified key discussion items, evaluated potential approaches, and reached agreement on solutions and Project Uses necessary to advance the development of the studio and cinematic infrastructure in the region.

The Parties hereby affirm that:

- They have met and conferred in good faith regarding the Project;
- They are in mutual agreement on the proposed plans for the studio as reflected in this Exhibit and its attachment; and
- They intend to proceed in alignment with the agreed-upon Project Uses described herein.

PROJECT USES

The City Contribution shall be used for costs associated with the Project, consistent with the agreed-upon discussions and outcomes of the Parties. Without limiting the foregoing, Project Uses shall include activities necessary to manage, oversee, and complete interior finishes and improvements within the Project, as included in Attachment A (the “Studio Planning Document”).

Attachement "A"
Studio Planning Document

Item	Discussion	Final
Office Space Concerns	With the additional office building funded through the 2026 legislative session, it was discussed that design of the new additional office building will receive input from this group of stakeholders.	Additional 10,000 sqft of office space will be part of new build ng ACI will initiate predesign on new office in June 2026.
Is the mill space big enough?	Requested additional space, which would include removal of the dividing wall between the mill space and sublease areas, and deletion of one restroom	Revisions to Mill Space for paint room, 3 person office, and laundry are agreed to.
Creation of an Executive Producer Office	Some offices in the existing design may be able to support this, as well as future offices in the additional office building	Executive Producer office Rm115 will be labeled in the Soundstage building (with a window). Studio Operations offices will be labeled as such in Production Support building. Additional Executive Producer offices will be provided in future office building of approximately 10,000 sqft.
Recommendation to make lobby smaller	Lobby area for soundstage building office area will be multi-purpose and possibly include design features such as video wall.	Wall structure includes support framing to support video wall or Large displays.
Recommendation to remove island in kitchen	These were requested by the operator and will remain in design.	Dishwasher and sink will be within island. All agreed not to remove.
Remove wardrobe next to soundstage	Recommended to relocate washer/dryer units in wardrobe room to Production support building, along with sink and work area for dye-ing, with adequate ventilation.	Wardrobe location TBD. Will be finalized when new building Design is complete
Power in soundstage needs to not be the minimum	Agreed that site studio power capacity requirements had been adequately addressed.	Site electrical design has plenty of power. Agree no changes are needed
	Exterior power for trailers currently in design along south fence in light pole bases was agreed to.	
	Exterior power currently in design at additional open "base camp" on west side of soundstage was a positive.	
	Discussed benefit of moving one company switch panel in the soundstage area up to catwalk level. ACI agreed to investigate	Drawing has been updated to include switch/panel at catwalk level platform
Server room	Recommended that space be provided for future servers to support future volumetric production in the Soundstage Building.	Storage room #105 next to IT room can be used in future for servers to support volumetric production.
Pad for chiller next to stage to future proof for potential volumetric stage	Existing pad space on the west side of the Soundstage Building can be used in the future for trailer or skid mounted chiller, as futureproofing for volumetric stage cooling needs if/when required.	Added to the design. All agree
Other specific architectural suggestions	Discussed need for supplemental cooling water underground supply line in trench along west side of soundstage building, with piping penetrations into soundstage at 2 corner locations.	Added to the design. All agree.
	Discussed need for a separate paint room with ventilation in the mill space area of the Production Support building.	Added to the design. All agree.
	Discussed concern for current design for laundry washer hot water heaters to ensure sufficient capacity and recovery time.	ACI will ensure adequate capacity and recovery for laundry water heater, and adequate room ventilation.
	Solar covered parking was discussed as a potential benefit for the site and attractive as a production marketing asset.	Will talk to EPE to see what kind of programming can be offered. All agree.

Other specific architectural suggestions	Need for manned security booth at site entrance discussed, along with overall site access control. ACI agreed to investigate, but current design includes cameras and communication pedestals at both entrances, and remote gate operation for production support offices.	ACI agrees to provide 2 lanes going in and 1 out with security booth. Traffic arms will be installed on entrance/exit, with gate sensor circuits in the exit driveway to open the traffic arm.
Studio name	Discussed concern that "Arrowhead" name has a negative connotation in the industry due to past economic impact reports produced by NMSU and Arrowhead Center.	Will be determined in the future

By signing below, the Las Cruces Economic Development Director acknowledges that she have reviewed and approved all changes discussed throughout the meetings related to this matter, and concurs with the attached final list of changes, and the final floor plans provided by Arrowhead Center, Inc. for the studio soundstage, production offices, construction mill, and other studio infrastructure.

Elizabeth Teeter
Las Cruces Economic Development Director

9/28/26
Date

Tracking No. _____

DONA ANA COUNTY REQUEST FOR SIGNATURE

TO: Scott Andrews, County Manager **Contract/Grant No** 26-267

THRU: Management Level Reviewer

FROM: Michael Perez **Phone:** X7133

DATE: 5/5/2026

SUBJECT: Signature Request – Sign MOU between Doña Ana County, Regents of New Mexic

Request

Sign MOU between Doña Ana County, Regents of New Mexico State University, and Arrowhead Center Inc.

Financial Impact

Not to exceed $1,300,000.00

Background

This Memorandum of Understanding (MOU) establishes a partnership between Doña Ana County and New Mexico State University (NMSU) to complete interior finishes and improvements for the Arrowhead Studios facility located in Las Cruces. Under the agreement, NMSU will manage and oversee construction of key production spaces, including soundstage support areas, production offices, and construction facilities. The project is intended to enhance film production capabilities in the region, leveraging partnerships with NMSU and industry stakeholders while ensuring compliance with applicable laws

Recommendation

Sign agreement

INTERNAL REVIEWS FOR PROCESSING

DEPARTMENT	**Department please complete this section for Finance Review and Approval.** Document Type: Contract ☐ Grant ☐ Other _____ Accounting String: F-601-CC-012 Req. or PO No. _____ Amount $ _____ Restricted Funds: Yes ☐ No ☐ Grant/State Appropriation No. _____
FINANCE	Reviewed and Approved: [signature] Date: 5-5-26
PURCHASING	Bid/RFP # _____ Authority: BOCC date approved 4/28/2026 NTE $100K _____ NMSA Exemption 13-1-98 A. Governement to Government Reviewed and Approved: [signature] Date:
LEGAL	Reviewed and Approved : Date:
REVIEWER NOTES:	Has been reviewed by Jim in Legal 5/5/2026 OKAY TO SIGN JL 5.5.26

26-267

MEMORANDUM OF UNDERSTANDING BETWEEN DOÑA ANA COUNTY, REGENTS OF NEW MEXICO STATE UNIVERSITY, AND ARROWHEAD CENTER INC.

THIS MEMORANDUM OF UNDERSTANDING (MOU) is entered into by and between the County of Doña Ana New Mexico (County), a political subdivision of the State of New Mexico, the Regents of New Mexico State University (NMSU), a state institution of higher education and Arrowhead Center, Inc. a New Mexico Research Park Act company (collectively referred as "the Parties").

WHEREAS, the County desires to provide additional funding required to complete the interior finishes on the Arrowhead Studios (the Project) located at 4698 S. Triviz Drive, Las Cruces, NM 88010; and

WHEREAS, NMSU is a land grant university located in Las Cruce, Doña Ana County, New Mexico whose mission includes public service to benefit the community; and

WHEREAS, NMSU or its designee will lease the Soundstage to a commercial operator; and

WHEREAS, NMSU will own the Arrowhead Studios upon expiration or termination of the Soundstage Development Agreement between NMSU, ACI, and the New Mexico Economic Development Department (Soundstage Development Agreement); and

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Parties hereby agree as follows:

ACI Responsibilities

ACI agrees to:

a. Manage, oversee, and complete interior finishes and improvements within the Project, including: a Soundstage Building, including space for production-related activities such as Hair/Makeup, Talent Holding, Wardrobe, Filming Office/Conference, Production Planning, and Multi-Use Spaces; and a Production Support Building including an Operator HQ Offices/Conference, a Production Mill Shop, a Set Construction/Painting area, and a Lighting/Rigging Storage space.
b. Ensure all work complies with applicable federal, state, and local regulations, procurement requirements, and NMSU internal policies.
c. Maintain accurate Project and financial documentation for review by the County for three years after completion of construction.
d. Provide the County with access to the Project site for the purpose of monitoring progress.
e. Promptly notify the County of any material changes to Project scope, schedule, or costs.

County Responsibilities

The County agrees to:

a. Provide funding as outlined in the Funding Section of this MOU.
b. Participate in Project meetings, inspections, and coordination activities as needed.
c. Designate a Project representative to serve as the primary point of contact for ACI and NMSU.

Funding

a. The County will provide funding in the amount of one million three hundred thousand dollars ($1,300,000.00) (Funds) to NMSU on or before [date].
b. Funds shall be used exclusively for interior finishes associated with the Project.

NMSU Responsibilities

a. NMSU will transfer the Funds to ACI to be used exclusively for interior finishes associated with the Project.
b. NMSU will comply with its obligations under the Soundstage Development Agreement.
c. In appreciation for Dona Ana County's support of the Arrowhead Studios project, the main conference room in the Soundstage building will be named "The Dona Ana County Room". In addition, a plaque will be installed in the lobby area of the Soundstage building that commemorates all stakeholder partners, including Dona Ana County, and their support of the Arrowhead Studios project.
d. Shall comply with the procurement code in the selection of contractors.

All Parties agree to the following terms and conditions:

1. **Term:** This MOU becomes effective upon signature by all Parties and remains in effect until all obligations completed.
2. **Amendments.** This Agreement shall not be altered, modified, or amended except by instrument in writing executed by all Parties.
3. **Assignment:** The Parties will not assign, delegate specific duties as part of this MOU, transfer any interest, nor assign any claims for money due or to become due under this MOU without the written consent of the County, NMSU, or ACI, or any of them, as may be applicable.
4. **Compliance with Governing Law:** This MOU shall be construed under the laws of the State of New Mexico. The Parties shall keep fully informed of and shall also comply with all applicable federal, state, and local laws, ordinances, and regulations and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any manner affect those engaged or employed, or the work, or which in any way affect the conduct of the work. By way of illustration, but not of limitation, the parties shall comply with laws relating to employment eligibility including: the Immigration Reform and Control Act of 1986 (Public Law 99-603) and the Immigration Act of 1990 (Public Law 101-649) regarding employment verification and retention of verification forms for any individual(s) hired on or after November 6, 1986, that will perform any labor or services under this MOU. The parties shall comply with all federal statutes relating to non-

discrimination including, but not limited to: Title VII of the Civil Rights Act of 1964 (Public Law 88-352), which prohibits discrimination on the basis of race, color, or national origin; Title IX of the Education Amendments of 1972, as amended [20 U.S.C.A. Section 504 of the Rehabilitation Act of 1973 (Public Law 93-112)], which prohibits discrimination on the basis of handicap; the Age Discrimination in Employment Act of 1967 (Public Law 90-202), as amended; the Americans with Disabilities Act of 1990 (Public Law 101-336); and all amendments to each, and all requirements imposed by the regulations issued pursuant to these acts, especially 45 CFR Part 80 (relating to race, color, and national origin), 45 CFR Part 84 (relating to handicap), 45 CFR Part 86 (relating to sex), and 45 CFR Part 91 (relating to age).

5. **Confidential Information:** Any proprietary information, or other information not subject to disclosure under the Inspection of Public Records Act, given to or developed by either Party, its officers, directors, employees, agents, or sub-consultants in the performance of this MOU shall be kept confidential and shall not be made available to any individual, organization, or other entity by any Party without prior written notice to the County. Nothing contained in the Agreement will operate to prevent either Party's compliance with IPRA requirements.

6. **Conflicts of Law:** If any provision of this MOU conflicts with governing federal or state law or County ordinances, then that law or ordinance shall supersede the conflicting provision of this MOU.

7. **Independent Contractor:** Nothing in the MOU is intended to or shall be deemed to constitute a partnership or joint venture between the parties. The County is and shall remain an independent entity under this MOU. Neither Party, nor their respective employees, are or shall be deemed to be employees of the other, nor may they bind the other in any respect. Neither Party's employees shall accrue leave, retirement, insurance, bonding, nor any other benefit afforded to the employees of the other.

8. **New Mexico Tort Claims Act:** The parties recognize that each Party is liable only to extent provided by the New Mexico Tort Claims Act, Sections 41-4-1 to 41-4-29, NMSA 1978 as amended, for the negligence or commissions of that Party's employees acting within the scope of their employment while acting in the furtherance of this agreement. By entering into this agreement, each Party and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity defense, or any other limitation of liability pursuant to law. No provisions of this agreement are intended to modify or waive any provision of the New Mexico Tort Claims Act.

9. **Personal Liability:** No elected or appointed official, employee, servant, agent, or law enforcement officer of either Party shall be held personally liable under this MOU or any extension thereof because of its enforcement or attempted enforcement, provided they are acting within the course and scope of their employment or governmental duty and responsibility.

10. **Procurement Code:** The Procurement Code, Sections 13-1-125 through 13-1-199, NMSA 1978 as amended, imposes civil and criminal penalties for illegal bribes, gratuities and kickbacks. Pursuant to the above, it is unlawful for either Party to

engage in bribery, offering gratuities with the intent to solicit business, or offering or accepting kickbacks of any kind. All other similar act(s) of bribes, gratuities, and/or kickbacks are likewise prohibited.

11. **Status of Employees:** Any employee of one of the parties who provides services under this Agreement shall remain the employee of his/her employer, who shall remain responsible for that employee's salary, fringe benefits, worker's compensation benefits, and unemployment compensation. Any of the parties' employees who undertake any activities under this Agreement shall remain subject to the supervision of his or her employer.

12. **Severability:** If any clause or provision of this MOU is held to be illegal, invalid, or unenforceable by a court of competent jurisdiction, then it is the intention of the parties hereto that the remainder of the MOU shall remain in full force and effect. However, in the event that either Party can no longer reasonably perform pursuant to the remaining terms, or if the purpose of the MOU can no longer be carried out by either Party, the MOU may be voided and no damages shall accrue to either Party

13. **Sovereign Immunity:** By entering into this Agreement, employees of the County and NMSU shall remain "public employees" as defined in the New Mexico Tort Claims Act, Sections 41-4-1 to 41-4-29, NMSA 1978, do not waive sovereign immunity, and do not waive any defenses or any limitations of liability available under law. No provision in this Agreement modifies and/or waives any of the provisions of the New Mexico Tort Claims Act, *supra*, and any amendments thereto.

14. **No Third Party Beneficiary:** It is specifically agreed between the parties executing this Agreement that it is not intended by the parties, or by any provision of or any part of the Agreement, to create in the public or any member thereof status as a third Party beneficiary of the Agreement or to authorize anyone not a Party to the Agreement to maintain a suit for wrongful death, injury to person, damage to property, and/or any other cause of action whatsoever pursuant to the provisions of this Agreement.

15. **Waiver:** Any waiver of any breach of any condition in this agreement to be kept and performed by either Party shall not be deemed or considered as a continuing waiver and shall not operate to bar or prevent either Party from declaring a default for any succeeding breach of the same condition or another condition.

16. **Entire Agreement:** All of the agreements, covenants, and understandings between the parties concerning the subject matter of the MOU, have been merged into this written MOU. No prior agreement, covenant, or understanding, oral or written, of the parties or their agents shall be valid or enforceable unless specifically embodied or incorporated by reference herein.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their duly authorized representatives on the date of last signature below.

DOÑA ANA COUNTY

Scott Andrews
Doña Ana County Manager

5-6-26
Date

REGENTS OF NEW MEXICO STATE UNIVERSITY

Valerio Ferme
President

Date

ARROWHEAD CENTER, INC.

Dr. Winnie Lee, Interim CEO

5/20/2026
Date

Board of Regents Meeting
Meeting Date: October 1, 2026
Agenda Item Cover Page

Agenda Item # X.C.

☒ Action Item
☐ Consent Item
☐ Informational Item

Presented By:
Andrew Bowen
Assistant Vice President of Public Safety

Agenda Item:

Resolution Adopting the 2026 Doña Ana All-Hazard Mitigation Plan

Requested Action of the Board of Regents:

Approve a resolution adopting the 2026 Doña Ana All-Hazard Mitigation Plan.

Executive Summary:

The 2026 Multi-Jurisdictional Hazard Mitigation Plan is required by FEMA. The plan identifies local natural hazard risks, outlines proposed mitigation actions and reduces long-term impacts. Adopting the Doña Ana County Plan eliminates the need to create a separate plan for the University and ensures alignment with the other Governing Entities in the region.

References:

2026 Multi-Jurisdictional Hazard Mitigation Plan

Prior Approvals:

None

Agenda Item Approved By:

The proposed resolution has been reviewed by the Chief of Staff and University General Counsel Office prior to approval.

_____ 9/24/2026
Andrew Bowen Date
Assistant Vice President of Public Safety

Resolution No. 2026-

REGENTS OF NEW MEXICO STATE UNIVERSITY

Resolution Adopting the 2026 Doña Ana All-Hazard Mitigation Plan

WHEREAS the Regents of New Mexico State University recognizes the threat that natural hazards pose to people and property within Doña Ana County; and

WHEREAS the Doña Ana Office of Emergency Management prepared a multi-hazard mitigation plan, hereby known as the 2026 Doña Ana All-Hazard Mitigation Plan in accordance with federal laws, including the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended; the National Flood Insurance Act of 1968, as amended; and the National Dam Safety Program Act, as amended; and

WHEREAS the 2026 Doña Ana All-Hazard Mitigation Plan identifies mitigation goals and actions to reduce or eliminate long-term risk to people and property of New Mexico State University from the impacts of future hazards and disasters; and

WHEREAS adoption by the Regents of New Mexico State University demonstrates its commitment to hazard mitigation and achieving the goals outlined in the 2026 Doña Ana All-Hazard Mitigation Plan.

NOW THEREFORE, BE IT RESOLVED by the Regents of New Mexico State University ("NMSU") that:

In accordance with the Regents Policy Manual, the Regents of NMSU adopts the 2026 Doña Ana All-Hazard Mitigation Plan. While content related to NMSU may require revisions to meet the plan approval requirements, changes occurring after adoption will not require the Regents of NMSU to re-adopt any further iterations of the plan.

Subsequent plan updates following the approval period for this plan will require separate adoption resolutions.

ADOPTED by Board of Regents of New Mexico State University, the 1st day of October, 2026, at its regular annual meeting held in Las Cruces, New Mexico.

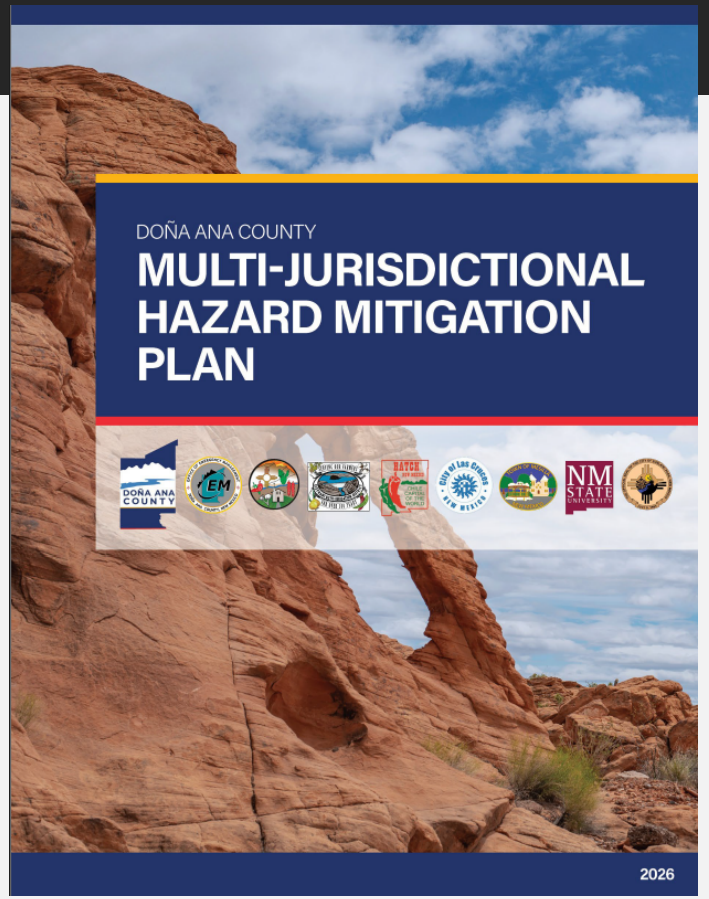
_____

Ammu Devasthali, Chair, NMSU Board of Regents

2026 Multi-Jurisdictional Hazard Mitigation Plan

WHAT IS AN MJHMP?

- FEMA required plan
- Identifies local natural hazard risks
- Outlines proposed mitigation actions
- Reduce long-term impacts



WHO IS INCLUDED

- Participating jurisdictions include:

WHAT HAZARDS ARE ADDRESSED?

Hazards include:

- Dam Failure
- Drought
- Extreme Temperatures
- Flooding
- Severe wind/dust storms
- Thunderstorms
- Wildfire



WHY DOES IT MATTER?



Clear Priorities

Define mitigation projects and strategies for the next 5 years.



Reduce Risk

Helps jurisdictions reduce risk and improve resilience before emergencies happen.



Funding Eligibility

Supports eligibility for FEMA hazard mitigation funding programs.

Status: FEMA review complete. Plan is Approved Pending Adoption.
Final Step: Formal Adoption by participating jurisdictions.

WHAT WAS THE PROCESS?

Update included:

- Jurisdiction participation
- Public Outreach
- Stakeholder Review
- Risk Assessment
- Mitigation Strategy Development
- FEMA Review



WHAT ARE WE ASKING TODAY?



1170

Questions?

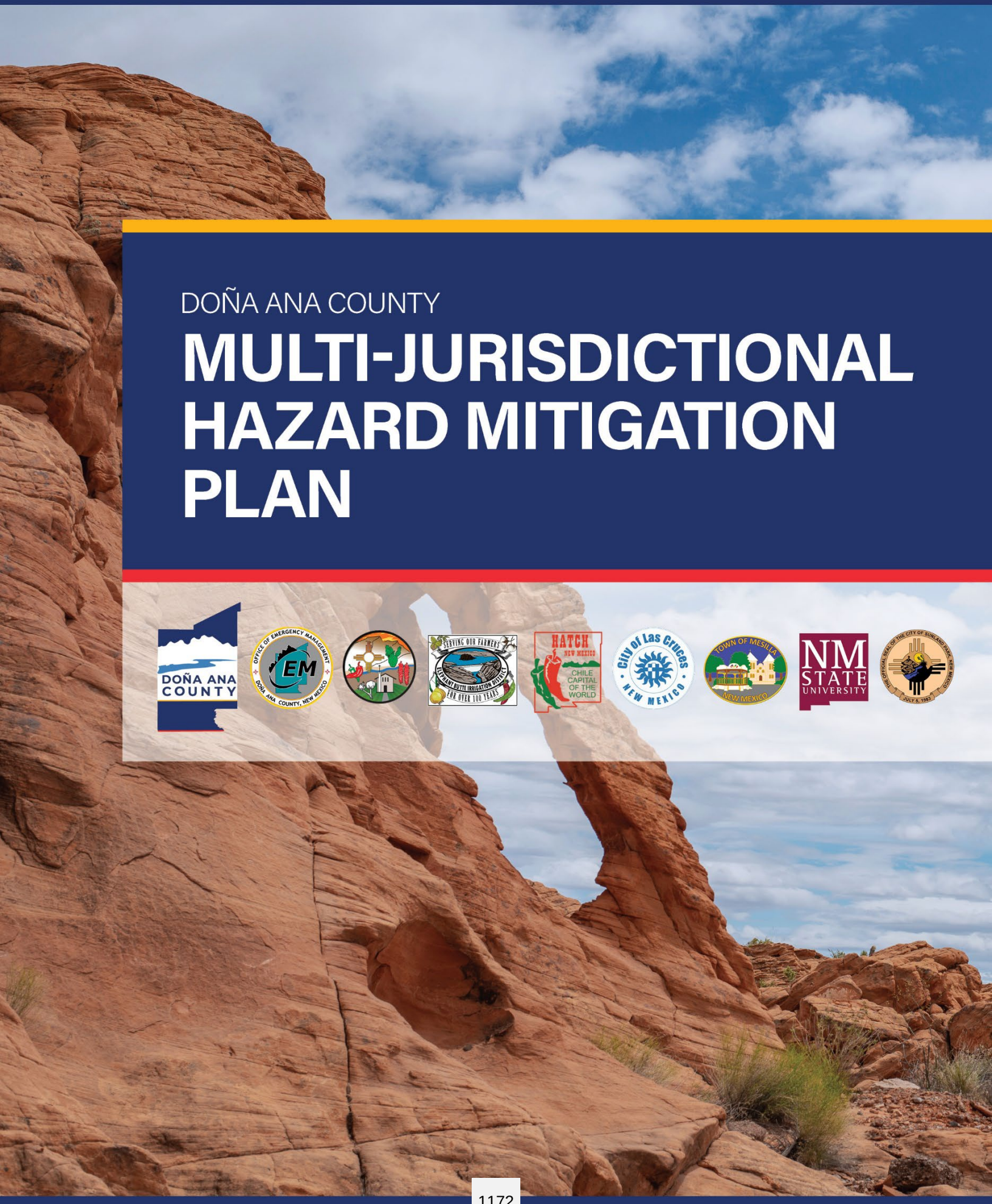
Office of Emergency Management

1170 N Solano Dr Suite O
Las Cruces, NM 88001

575.647.7900

oem@donaana.gov

Leading with Preparedness, Responding with Excellence



DOÑA ANA COUNTY

MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN

1172

2026

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1 INTRODUCTION AND THE PLANNING PROCESS

1.1 INTRODUCTION

Hazard mitigation refers to any action taken before, during, or after a disaster that permanently reduces or removes the long-term risk to human life and property. As a key part of a comprehensive emergency management program, hazard mitigation works in concert with preparedness, response, and recovery to help communities anticipate hazards, limit damage, and bounce back quickly.

This 2026 Doña Ana County Multi-Jurisdictional Hazard Mitigation Plan (MJHMP) update provides a framework for identifying and addressing the risks posed by natural hazards across Doña Ana County. It offers participating jurisdictions (Doña Ana County, the City of Anthony, the City of Las Cruces, the City of Sunland Park, the Town of Mesilla, the Village of Hatch, Elephant Butte Irrigation District, and New Mexico State University) a blueprint to reduce losses, bolster local capabilities, and promote resilience. By examining the impacts of local hazards,

highlighting existing resources and capabilities, and detailing a coordinated mitigation strategy, this plan lays out the path toward a safer, more resilient future for all who live and work in Doña Ana County.

1.2 PLAN GOALS

The MJHMP is prepared in compliance with Section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended by the Disaster Mitigation Act of 2000 (DMA 2000), 44 CFR §201.6, and applicable federal guidance. This ensures the plan's continued eligibility for federal hazard mitigation assistance programs. By engaging in this planning process, participating jurisdictions reaffirm their commitment to reducing the long-term risk posed by natural hazards and leveraging mitigation as a cornerstone of their comprehensive emergency management strategies.

In alignment with the requirement to review and, if needed, revise previous plan goals, the Local Planning Team (LPT) revisited the 2021 All-Hazard Mitigation Plan (AHMP) goals that had originally been carried forward from the 2013 plan. After evaluating the 2021 goals, as well as the goals in the 2023 State of New Mexico Hazard Mitigation Plan (SHMP), the participating jurisdictions reached consensus to preserve the essence of the established Doña Ana County goals while acknowledging the importance of capacity-building and equitable outreach. The resulting plan goals remain broad-based, future-oriented policy statements that guide the development of the mitigation strategy and corresponding objectives.

Goal 1: Improve hazard mitigation communication and collaboration with federal, state, local, and other governmental agencies, and private-sector organizations and stakeholders.

This goal emphasizes continued outreach, coordination, and partnership-building. By strengthening communication channels, jurisdictions across Doña Ana County can better align resources, address gaps, and foster holistic regional resilience.

Goal 2: Promote disaster-resistant future development.

Through planning, regulation, and implementation of mitigation projects, Doña Ana County jurisdictions seek to reduce vulnerability for new development and redevelopment. This entails guiding growth away from high-hazard areas and encouraging building practices that are in line with or exceed current codes.

Goal 3: Promote public understanding, support, and demand for hazard mitigation.

This goal reflects the importance of educating residents, businesses, and other stakeholders on local hazards, vulnerabilities, and the steps they can take to be more resilient. Enhanced public awareness fosters a "whole community" approach and yields stronger local engagement and buy-in for mitigation measures.

Goal 4: Reduce or eliminate the risk to people and property from natural hazards by developing community resiliency.

This core goal captures the direct objective of mitigating natural hazard impacts. It encompasses actions to safeguard life, property, critical infrastructure, and the economy, while

ensuring equitable outcomes for all communities - particularly underserved or socially vulnerable populations.

Goal 5 – Explore all internal and external avenues to fund mitigation activities.

Ongoing exploration of available funding streams (local, state, federal, and private) ensures that Doña Ana County jurisdictions can proactively pursue mitigation projects. By matching identified needs with potential grants or other resources, participants can better prioritize and implement effective solutions.

These goals collectively illustrate Doña Ana County's priority to protect lives, property, and critical assets, while establishing long-term resilience and capacity across the planning area. The objectives, detailed further in the mitigation strategy, will tie specific hazard mitigation initiatives to each goal and measure the plan's success over time.

1.3 PLAN ORGANIZATION

The MJHMP is organized into five main sections, supplemented by appendices and supporting documents. Each section details a critical component of the hazard mitigation planning process, from initial data collection and stakeholder engagement through long-term plan maintenance.

Section 1: Introduction and Planning Process
This section provides an overview of plan participants, including Doña Ana County, the City of Anthony, the City of Las Cruces, the City of Sunland Park, the Town of Mesilla, the Village of Hatch, Elephant Butte Irrigation District, and New Mexico State University. It documents the MJHMP methodology, highlights the LPT and other stakeholder involvement, and explains how this plan will be incorporated into existing programs. It concludes with a description of the plan adoption process by each participating jurisdiction.

Section 2: Community Profile and Capability Assessment
This section summarizes Doña Ana County's physical setting, land use patterns, development trends, population and demographics, and general building stock. It identifies critical facilities and lifelines that are essential to local emergency management and continuity of services. The section also reviews the County's existing plans, programs, and regulatory mechanisms spanning federal, state, county, and local levels that support hazard mitigation.

Section 3: Hazard Identification and Risk Assessment (HIRA)
This section describes the hazard identification and risk ranking process used to determine priority hazards for the County. Each hazard profile includes an overview of potential impacts on life safety, general building stock, and critical facilities, as well as an assessment of broader consequences (impacts to responders, local governance, economy, environment, etc.). Vulnerability assessments quantify potential losses and identify data gaps, with a plan for improving local data over time to better support mitigation planning.

Section 4: Mitigation Strategy

This section outlines the mitigation goals and objectives that address the hazards of greatest concern. It describes how the Countywide mitigation strategy was developed and refined, including newly identified or updated mitigation actions. Emphasis is placed on aligning local capabilities with strategies that reduce hazard impacts, support community resilience, and meet the overarching goals for Doña Ana County and its jurisdictions.

Section 5: Plan Maintenance Procedures
This section details the established processes and schedule for regularly monitoring, evaluating, and updating the MJHMP. It highlights how jurisdictions will measure progress, reassess risk, and incorporate new information, ensuring the plan remains current, actionable, and effective over its five-year life cycle and beyond.

Each section is accompanied by supporting appendices that provide more detailed data, references, and documentation of the planning process. Together, they form a comprehensive roadmap for reducing the County's risk to hazards and building a more disaster-resilient community.

1.4 PLANNING PROCESS

The DMA 2000 and its implementing regulations at 44 CFR §201.6 require that local hazard mitigation plans document the planning process used to develop and update the plan. This includes identifying how the plan was prepared, who was involved, how the public and stakeholders were engaged, and how existing plans, studies, reports, and other information were integrated. Transparent documentation of the process helps demonstrate that the plan reflects a collaborative, data-driven, and locally informed approach to reducing hazard risk.

The 2026 update of the MJHMP followed a structured and inclusive process consistent with FEMA's Local Mitigation Planning Policy Guide (2022) and relevant state guidance. This section details the key steps and milestones in the planning process, including participation by jurisdictions, formation of the LPT, stakeholder and public engagement, and integration with other local planning mechanisms.

1.4.1 Planning Timeline

The hazard mitigation plan update followed a structured sequence of activities over approximately one year. Major steps included project initiation, data collection, analysis, strategy development, plan drafting, and review and revision, supported by planning team meetings and public engagement opportunities. Appendix E describes the timeline of work to complete the update.

1.4.2 Participating Jurisdictions

Table 1 shows all jurisdictions that were participants in the plan update.

Table 1: Participating Jurisdictions in the 2025 Update

Participating Jurisdictions	
Doña Ana County	City of Anthony
City of Las Cruces	City of Sunland Park
Town of Mesilla	Village of Hatch
Elephant Butte Irrigation District	New Mexico State University

Each participating jurisdiction was asked to do the following:

- Actively participate in the planning process.
- Provide an update on the status of mitigation actions identified for that community in the 2021 plan.
- Provide an update on community capabilities.
- Identify at least one new or continuing hazard mitigation action in the updated 2026 hazard mitigation strategy.
- Provide input throughout the process on plan elements.
- Review and provide feedback on draft sections of the plan.
- Support public participation in the process.
- Adopt the final plan via a formal resolution following Federal Emergency Management Agency (FEMA) approval.

Figure 1: Doña Ana Communities

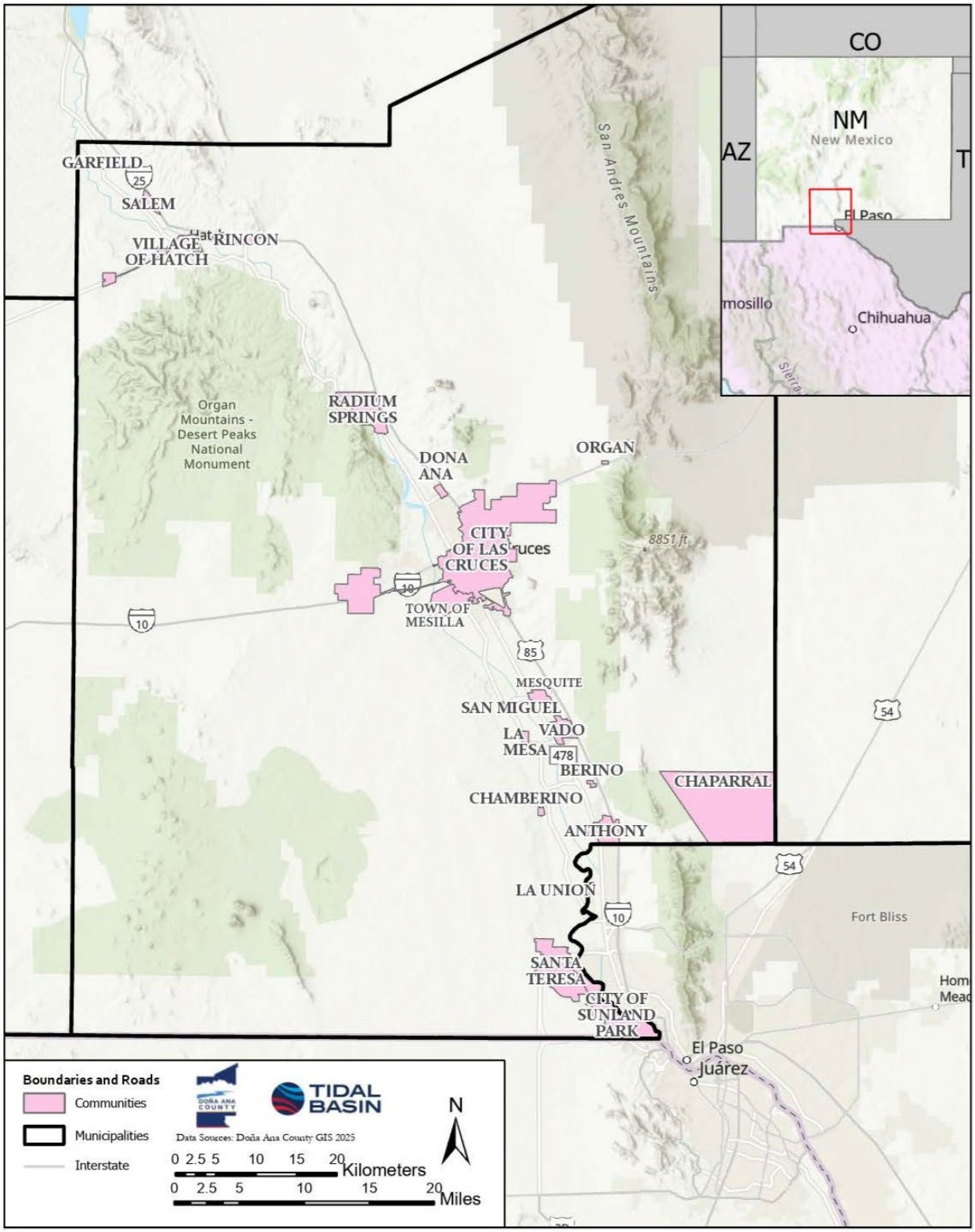


Table 2: Community Participation in the Process

Community	Updated Status of 2021 Hazard Mitigation Actions	Updated Community Capabilities	Updated Hazard Identification and Risk Assessment	Added New Mitigation Action(s)	Supported Public Participation	Attended Planning Meeting(s)
City of Anthony	•	•	•	•	•	•
City of Las Cruces	•	•	•	•	•	•
City of Sunland Park	•	•	•	•	•	•
Town of Mesilla	•	•	•	•	•	•
Village of Hatch	•	•	•	•	•	•
Elephant Butte Irrigation District	•	•	•	•	•	•
New Mexico State University	•	•	•	•	•	•
Doña Ana County	•	•	•	•	•	•

To support consistent data collection across participating jurisdictions, the planning team developed, distributed, and facilitated use of a standardized Mitigation Planning Tool (MPT). This tool served as a central mechanism for gathering information on local capabilities, reviewing progress on previously identified mitigation actions, identifying current hazard concerns, and generating new project ideas. Each jurisdiction was asked to complete the tool with input from relevant local staff and stakeholders. Responses from the tool informed the Community Profile, Hazard Identification and Risk Assessment (HIRA), Capability Assessment, and Mitigation Strategy sections of this plan.

1.4.3 Local Planning Team

To assist in the development of the plan update and provide guidance and community input on the process, an LPT was convened to serve as community representatives in the process. A list of these members, their title, and affiliation are provided in Table 3.

Table 3: Local Planning Team Members

Last Name	First Name	Title	Jurisdiction
Armijo	Angela	Floodplain Administrator	Las Cruces
Astorga	Lorenzo	Public Works Director	Mesilla
Bowen	Amanda	Emergency Manager	Doña Ana County

Last Name	First Name	Title	Jurisdiction
Bowen	Andrew	Interim Assistant Vice President	New Mexico State University
Garza	Michael	Flood Engineer, Flood Commission	Doña Ana County
Juarez-Infante	Mario	City Manager	Sunland Park
Maciel	Delyce	Director of Human Resources and Safety	Elephant Butte Irrigation District
Murillo	Diana	Mayor	Anthony
Ordoñez	Vanessa	Police Chief	Anthony
Pitts	Tim	Community Development	Las Cruces
Shreves	Manny	Planning & Zoning Director	Hatch

1.4.4 Public and Stakeholder Outreach

Public engagement is a foundational element of the hazard mitigation planning process, ensuring that the updated plan reflects local knowledge, values, and priorities. Outreach was conducted at both the outset and conclusion of the planning process to give residents, community organizations, and other interested stakeholders meaningful opportunities to provide input.

An electronic community survey was released on April 8, 2025, and ran through June 30, 2025, using the Microsoft Forms platform to collect input on hazard concerns, perceived community vulnerabilities, and mitigation priorities. The survey was promoted through all participating jurisdictions, using a combination of websites, social media, email distribution lists, and partner networks. A full accounting of advertising efforts is provided in the Planning Process Appendix.

Recognizing the importance of equitable participation, Doña Ana County and its planning partners made a deliberate effort to engage traditionally underserved populations (TUPs) throughout the planning effort. Participating jurisdictions were encouraged to share the survey and project materials through organizations that serve low-income, non-English-speaking, elderly, disabled, and otherwise vulnerable residents.

Stakeholders (defined as individuals, agencies, organizations, and jurisdictions with a vested interest in local hazard mitigation) played an active role throughout the process. Regional, county, and local representation was prioritized, and each participating jurisdiction was asked to serve as a conduit to stakeholders within its own community. These efforts helped ensure that the perspectives of a broad and diverse set of community partners were reflected in the planning process and the resulting mitigation strategy.

Community leaders were also engaged in the planning process for document review and input, and the method by which they were engaged is provided in Table 4.

Table 4: Stakeholder Engagement

Stakeholder	Participation Opportunity	Jurisdiction
John Colquitt, local business leader	Provided Opportunity to Review Plan and Provide Comment	Chaparral, NM
Maria Burciaga, city council member	Provided Opportunity to Review Plan and Provide Comment	Sunland Park, NM
Lyla Wagley, trusted community member	Provided Opportunity to Review Plan and Provide Comment	La Mesa, NM
MaryAnn Galindo, trusted community leader and water district representative	Provided Opportunity to Review Plan and Provide Comment	La Union, NM
Jorge Garcia, trusted community leader and water district representative	Provided Opportunity to Review Plan and Provide Comment	La Union, NM
Beverly Franklin, trusted community member	Provided Opportunity to Review Plan and Provide Comment	Hatch & Rincon, NM
Henry Jasso, President of the Doña Ana Village Historic Preservation Committee	Provided Opportunity to Review Plan and Provide Comment	Doña Ana, NM
Otero County Emergency Management	Provided Opportunity to Review Plan and Provide Comment	Otero County, NM
Luna County Emergency Management	Provided Opportunity to Review Plan and Provide Comment	Luna County, NM
Sierra County Emergency Management	Provided Opportunity to Review Plan and Provide Comment	Sierra County, NM
Lincoln County Emergency Management	Provided Opportunity to Review Plan and Provide Comment	Lincoln County, NM
Chaves County Emergency Management	Provided Opportunity to Review Plan and Provide Comment	Chaves County, NM
Eddy County Emergency Management	Provided Opportunity to Review Plan and Provide Comment	Eddy County, NM
El Paso Emergency Management	Provided Opportunity to Review Plan and Provide Comment	El Paso County, TX

Following completion of the draft plan, a public comment period was held from October 3, 2025 to October 17, 2025. The draft was made available online via the Doña Ana County Office of Emergency Management (OEM) website, and an online comment tool was developed to gather feedback. All comments received during the public review period were reviewed and incorporated as appropriate before finalizing the plan.

1.4.5 Planning Meetings

Three primary LPT meetings were convened to guide and support the planning process:

- **Planning Meeting #1** was held virtually and introduced the project scope, timeline, and methodology. Jurisdictions were briefed on their responsibilities and received guidance on reporting current capabilities and updating mitigation actions from the 2021 AHMP.
- **Planning Meeting #2** (virtual) focused on reviewing preliminary HIRA results, including hazard rankings and key takeaways. Jurisdictions were invited to provide local insight to validate or refine findings.
- **Planning Meeting #3** was conducted through three in-person regional workshops across the County. These onsite sessions enabled the planning team to work face-to-face with LPT members and partners to collaboratively identify and refine mitigation actions. Virtual options were offered to those unable to attend in person.

In addition to these formal sessions, the planning team held one-on-one or small-group meetings with each jurisdiction to support data collection, clarify local conditions, and refine mitigation actions.

This mix of virtual, in-person, and informal engagement ensured jurisdictions received tailored support and that the plan reflects both regional trends and local priorities.

1.4.6 Community Capabilities

As part of the planning process, participating jurisdictions were asked to report on their current capabilities that support hazard mitigation. This information provides an understanding of each community's existing tools, resources, and systems that can be leveraged to implement mitigation actions and reduce risk.

Jurisdictions reported on capabilities across the following categories:

- **Planning and regulatory.** Local plans, ordinances, codes, and policies that guide development and hazard mitigation.
- **Administrative and technical.** Staff expertise, department functions, and technical capacity available to support mitigation planning and implementation.
- **Financial.** Access to local, state, federal, or private funding that may be used to support mitigation initiatives.
- **Education and outreach.** Public communication and engagement programs that can be used to inform and motivate residents to reduce hazard risks.



The results of the capabilities reporting process are summarized in Section 2 of this plan and are used to inform the development of the updated mitigation strategy in Section 4.

1.4.7 Hazard Identification and Risk Assessment

A risk assessment involves evaluating the threat, vulnerability, and potential consequences of hazards that may impact the participating jurisdictions across the planning area. While hazard mitigation planning is focused on natural hazards, understanding risk in Doña Ana County also requires consideration of development trends, climate impacts, and jurisdictional priorities.

The following natural hazards were identified and assessed during the 2026 plan update process:

- Dam Failure
- Drought
- Extreme Temperatures
- Flooding
- Severe Wind (including Dust Storm)
- Thunderstorms (Lightning and Hail)
- Wildfire

This list reflects both the hazards carried forward from the 2021 plan and the addition of dust storms within severe wind based on input from participating jurisdictions and observed trends across the region. The LPT conducted an initial evaluation of hazard risk using available data and then refined the list during the second planning meeting by incorporating local knowledge and experience.



The full hazard identification and risk assessment, including hazard profiles, vulnerability estimates, and consequence analyses, is presented in Section 3 of this plan. This assessment forms the foundation for the mitigation strategy developed in Section 4.

1.4.8 Hazard Mitigation Strategy

Development of the updated hazard mitigation strategy followed a two-part process designed to build on past efforts while supporting the creation of actionable, community-driven mitigation initiatives.

First, participating jurisdictions were provided with a list of hazard mitigation actions from the 2021 AHMP. Each jurisdiction was asked to evaluate the status of their prior actions using one of the following designations:

- Not started
- In progress
- Delayed
- Completed
- Cancelled

In addition to assigning a status, jurisdictions were encouraged to provide context for each action, including:

- The completion date and observed benefits (if completed)
- Barriers or resource gaps (if not started)
- Level of progress and projected timeline (if in progress)
- Reason for delay (if delayed)
- Reason for removal (if cancelled)

This evaluation helped participating communities establish a baseline of ongoing mitigation activity and identify opportunities to refine or carry forward effective strategies into the 2026 plan.

After the risk assessment was completed, the planning process shifted toward the development of new and continuing mitigation actions tailored to current needs and capabilities. Rather than holding a single centralized planning meeting, the project team scheduled a series of three, in-person, regional strategy meetings across Doña Ana County. These onsite sessions created space for more targeted, face-to-face collaboration between LPT representatives and their local partners. Each session was designed to support jurisdictions in identifying viable, valuable, and actionable mitigation strategies that reflect both local priorities and federal funding eligibility criteria.

Jurisdictions also received written guidance on the required elements of a complete mitigation action and were invited to request additional support from the planning team throughout the strategy development phase.



All new and continuing actions identified through this process are documented in Section 4, forming the core of the county's updated hazard mitigation strategy.

1.4.9 Plan Implementation and Maintenance

The LPT developed a plan for MJHMP implementation and maintenance, including annual review and evaluation, integration with other planning mechanisms and continued public involvement.



The plan implementation and maintenance information can be found in Section 5.

2 COMMUNITY PROFILE AND CAPABILITIES

2.1 INTRODUCTION

This section provides an overview of the physical, demographic, and functional characteristics of Doña Ana County and its participating jurisdictions, along with a summary of their current capabilities to support hazard mitigation. Understanding the landscape - both literally and organizationally - is key to crafting a relevant and effective mitigation strategy.

2.2 HISTORY

Doña Ana County, established in 1852, is the second-most populous county in New Mexico and one of its oldest inhabited regions. Its historical roots stretch far deeper than its official incorporation. Travelers, settlers, and Indigenous peoples have moved through and shaped this landscape for centuries.

According to the Doña Ana County Historical Society, the area was traversed for over 400 years by those journeying along the *Camino Real de Tierra Adentro*, the major trade route linking Mexico City to Santa Fe. This corridor fostered a rich exchange of cultures, ideas, and goods, leaving behind stories, architecture, and traditions that remain embedded in the region today.

The earliest European incursion into the region dates back to 1536 with Spanish adventurers exploring the vast territory that would become New Mexico. But the land was already deeply rooted in Indigenous presence - archaeological evidence from sites like Keystone Heritage Park, just across the river in present-day El Paso, indicates settlement as far back as 4,000 years ago. These early Native American communities cultivated the land and adapted to its rugged beauty long before Spanish colonization.

In 1843, the Doña Ana Bend Colony was established, becoming the first permanent Hispano settlement in the southern region of the territory. Situated near a bend in the Rio Grande, the colony drew settlers for its arable land and strategic location. By 1900, Doña Ana County was home to an agriculturally based society of just over 10,000 people, with market ties to Las Cruces, El Paso, and Ciudad Juárez.

Las Cruces itself was formally founded in 1849 following the conclusion of the U.S.-Mexican War, and its growth was accelerated by the 1854 Gadsden Purchase, which secured much of southern New Mexico for the United States. The arrival of the Atchison, Topeka & Santa Fe Railroad in the 1880s further transformed the region. Las Cruces became a hub for trade, education, and innovation, with the founding of Las Cruces College (now New Mexico State University [NMSU]) in 1888.

Agriculture has remained central to the county's economy and identity. The Mesilla Valley, with its fertile soils and dependable irrigation from the Rio Grande and later the Elephant Butte Dam, supported robust pecan, chile, and cotton production. However, Doña Ana's history also includes chapters of economic hardship and environmental challenge, from drought and flood to

the upheaval of the Great Depression and the more recent pressures of climate change and urbanization.

Today, Doña Ana County is a dynamic intersection of cultures, languages, and economies. While the city of Las Cruces and the southern urban corridor continue to grow rapidly, much of the county retains its rural heritage, agricultural productivity, and enduring historical identity rooted in centuries of migration, resilience, and place.

2.3 PHYSICAL ENVIRONMENT

Doña Ana County encompasses a uniquely diverse physical landscape shaped by its geography, hydrology, and geology. Understanding this setting is essential for assessing hazard exposure and informing mitigation strategies. The region's complex interplay of mountain ranges, desert basins, floodplains, aquifers, and volcanic features contributes to a variety of hazards, including flooding, drought, wildfire, windblown dust, and geologic instability.

2.3.1 Geography

Doña Ana County covers approximately 3,804 square miles in south-central New Mexico. It is bordered by El Paso County, Texas to the east and southeast; the state of Chihuahua, Mexico to the south; Luna County to the west; Sierra County to the north; and Otero County to the northeast. The county extends from roughly 106.31° to 107.32° west longitude and from 31.79° to 33.07° north latitude.

The county's most prominent feature is the Mesilla Valley, a wide and fertile floodplain of the Rio Grande that supports a significant portion of the county's population and agriculture. This valley extends north to south through the heart of the county and is a key area of concern for flooding due to its low-lying topography and proximity to the river.

Mountain ranges dominate the landscape surrounding the valley. On the eastern edge lie the Organ Mountains, part of the Organ Mountains–Desert Peaks National Monument. Additional highlands include the San Andres, Doña Ana, Sierra de las Uvas, Robledo, and the East and West Potrillo Mountains. The area also includes distinct volcanic features such as Tortugas Mountain, Picacho Peak, and Aden Crater. These uplands influence local microclimates, watershed dynamics, and wildfire behavior, and may be subject to slope-related hazards.

Doña Ana County's varied terrain - from elevated ridgelines to flat, desert basins - has a direct impact on emergency access, infrastructure planning, and the type and intensity of hazard risk faced by each community.

2.3.2 Hydrology

The county's hydrology is primarily shaped by the Rio Grande, which bisects the region and plays a central role in agriculture, municipal water supply, and flood risk. The river's flow is highly regulated upstream by Elephant Butte Dam, which affects seasonal and annual discharge volumes through the Mesilla Valley.

Underlying the Mesilla Valley is the Mesilla Basin aquifer system, a critical groundwater source composed of Quaternary floodplain alluvium and deeper Santa Fe Group sediments. According to the U.S. Geological Survey (*Geohydrology of the Mesilla Ground-Water Basin*), the aquifer is a primary water supply for both agricultural and domestic use. Groundwater levels are sensitive to extended drought, pumping demand, and recharge rates.

Hydrologic concerns also include localized flooding during intense rainfall events, particularly in urbanized or poorly drained areas. Additionally, as noted in the *Doña Ana County Water Factsheet*, water quality issues are a growing concern. Naturally occurring arsenic and salinity levels are elevated in some parts of the aquifer, and contamination from failing septic systems and agricultural runoff further threaten water resources.

2.3.3 Geology

Geologically, Doña Ana County is situated within the Basin and Range Province, defined by its alternating series of uplifted fault-block mountains and down-dropped desert basins. Much of the terrain is underlain by ancient sedimentary rock, volcanic flows, and alluvial deposits that bear directly on groundwater storage, soil stability, and hazard susceptibility.

The East and West Potrillo Mountains, located in the southern and western parts of the county, are notable for their volcanic origins. The West Potrillo Volcanic Field contains over 150 cinder cones and volcanic features, including the expansive Aden Malpais lava field and the internationally recognized Kilbourne Hole maar volcano. These formations serve as reminders of the region's geologically active past.

Several fault lines run through the county, contributing to low but present seismic risk. Steep slopes and fractured terrain in the Organ and Doña Ana Mountains also pose localized concerns for rockfall and slope failure.

Geological conditions also shape soil types, drainage capacity, and susceptibility to wind erosion, which is a major factor in dust storm formation. The *High Wind Fugitive Dust Mitigation Plan for Doña Ana and Luna Counties* identifies areas with high dust generation potential due to loose surface soils and sparse vegetation—conditions often directly tied to geologic and topographic features.

2.4 POPULATION AND DEMOGRAPHICS

Doña Ana County stands as New Mexico's second-most populous county, despite being only the 16th largest by land area. It is home to the largest majority-Hispanic community in the state, and its county seat, Las Cruces, is recognized as one of the fastest-growing cities in the United

States. Drawing on publicly available sources such as the U.S. Census Bureau, Data USA, and Statistical Atlas, the following summary provides an overview of key population and demographic characteristics relevant to hazard mitigation planning.

Population Composition

- **Total population**
  Approximately 225,210 residents (2023 estimate)
- **Ethnic and racial makeup**
  - 68.9% Hispanic or Latino
  - 26.2% White (non-Hispanic)
  - 1.57% Black or African American
  - 1.05% Asian
  - 0.71% American Indian and Alaska Native
- **Citizenship**
  Approximately 92% of residents are U.S. citizens.

Age and Household Characteristics

- **Median age**
  Approximately 34.8 years, indicating a relatively young population compared to national averages.
- **Households**
  Approximately 83,530 households, with an average household size of 2.59 persons.

Economic Indicators

- **Median household income**
  Approximately $55,663.
- **Employment sectors**
  Leading industries include health care and social assistance, educational services, and retail trade.

Language and Education

- **Language**
  A significant proportion of residents speak a language other than English at home, with Spanish being the most common.
- **Educational attainment**
  Approximately 27.5% of adults aged 25 and older hold a bachelor's degree or higher.

2021 Mitigation Plan Success Story

Doña County
Evaluate, Update, and Adopt Building Codes

In 2021, communities across the region successfully completed a coordinated effort to evaluate and align their building codes such as UBC, SB, and IBC while ensuring compliance with State Law requirements. By adopting a consistent code across jurisdictions, this initiative significantly improved regional protection and laid the groundwork for more resilient and uniform development standards.



2.5 SOCIAL VULNERABILITY

Social vulnerability refers to the potential negative impacts that external stressors - such as natural disasters, disease outbreaks, or economic disruptions - can have on communities. It reflects the capacity of individuals and households to anticipate, cope with, respond to, and recover from hazardous events. Social vulnerability is shaped by a range of underlying factors including income, education, age, health status, housing conditions, language access, and transportation availability.

To help identify areas of heightened vulnerability, the Centers for Disease Control and Prevention (CDC) and the Agency for Toxic Substances and Disease Registry (ATSDR) developed the Social Vulnerability Index (SVI). The SVI uses 16 variables drawn from the U.S. Census Bureau's American Community Survey and organizes them into four thematic categories:

Theme 1: Socioeconomic Status
Including poverty, unemployment, education, and insurance coverage.

Theme 2: Household Composition and Disability
Capturing age demographics, disability status, single-parent households, and English proficiency.

Theme 3: Minority Status and Language
Highlighting communities with higher proportions of racial and ethnic minorities and those with limited English proficiency.

Theme 4: Housing Type and Transportation
Addressing mobility and housing-related risks such as lack of vehicles, crowded living conditions, and mobile home residency.

These themes are especially relevant in hazard mitigation planning. Socially vulnerable populations often face systemic barriers to information, resources, and recovery assistance - making it harder for them to evacuate, access health care, secure safe housing, or recover economically after a disaster. By understanding where and how vulnerability is concentrated, Doña Ana County can prioritize equitable risk reduction strategies and better support all communities through targeted outreach, investment, and interventions.

2.5.1 Spatial Distribution of Vulnerability

The CDC/ATSDR SVI 2022 provides a census tract-level view of vulnerability across Doña Ana County. The index ranks census tracts based on 16 variables grouped into four themes: socioeconomic status, household composition and disability, racial and ethnic minority status, and housing type and transportation. Each tract receives a percentile score relative to others in

New Mexico, allowing planners to identify communities that may face disproportionate challenges during and after a disaster.

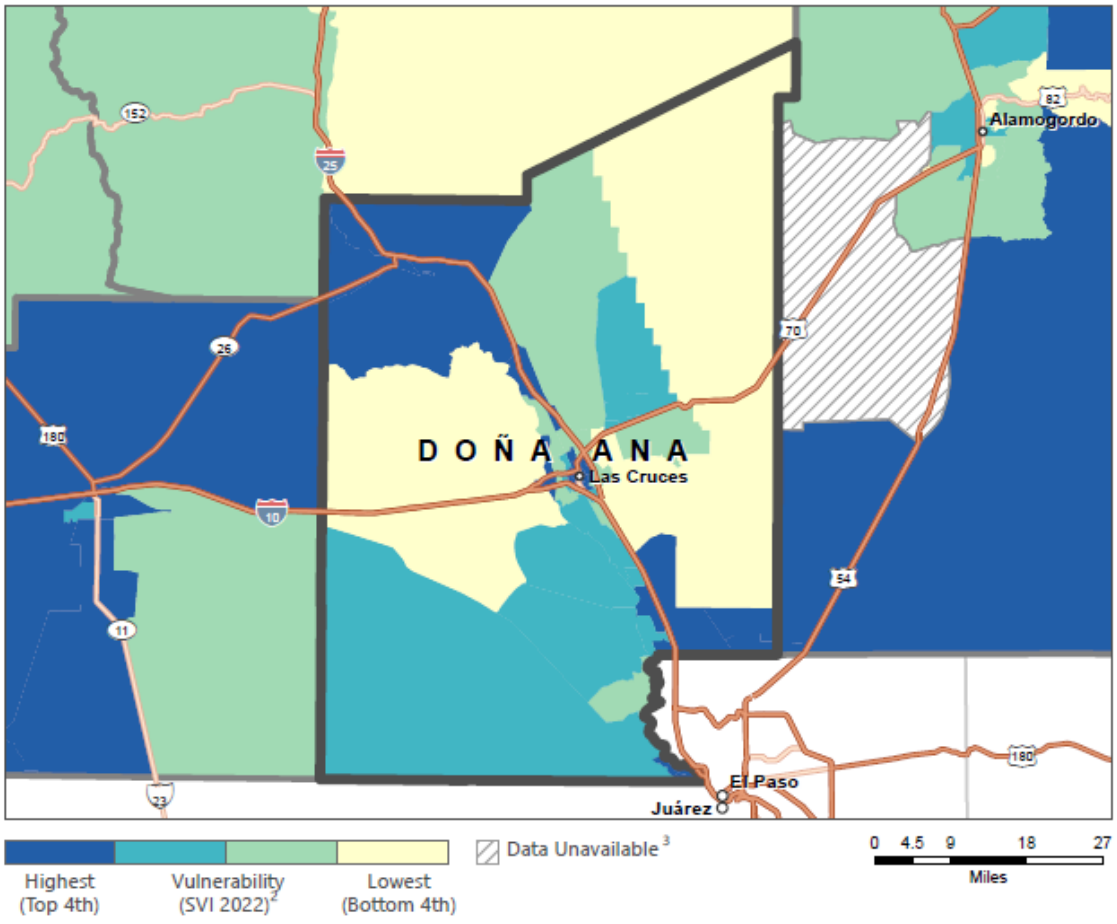
According to the 2022 SVI map, social vulnerability is not uniform across the county. The areas of highest overall vulnerability are concentrated in:

- Southern Doña Ana County, especially around Sunland Park and Santa Teresa
- Tracts adjacent to Las Cruces, particularly to the west and northeast of the city center
- Select rural communities such as Vado, Berino, and Chaparral, which exhibit high vulnerability in multiple themes

In contrast, the census tracts covering central Las Cruces and several tracts to the north and east show lower overall vulnerability. These differences reflect varying levels of income, education, transportation access, and other social determinants of resilience.

These spatial differences underscore the importance of place-based planning. By targeting outreach and mitigation efforts in areas of elevated vulnerability, the County and participating jurisdictions can improve equity in emergency preparedness and recovery. Figure 2 shows the combined overall SVI of Doña Ana County.

Figure 2: Overall SVI of Doña Ana County



Note: A full set of SVI theme maps and percentile rankings for Doña Ana County census tracts is available from the CDC/ATSDR SVI 2022 dataset and map viewer.

2.5.2 Socioeconomic Status

The socioeconomic status theme of the SVI reflects a community's access to financial and educational resources - both of which are strongly correlated with resilience in the face of disasters. This theme includes five key variables:

- Percentage of the population living below 150% of the federal poverty level
- Unemployment rate
- Percentage of residents with no high school diploma
- Percentage of households burdened by housing costs (spending more than 30% of income on housing)
- Percentage of the population without health insurance

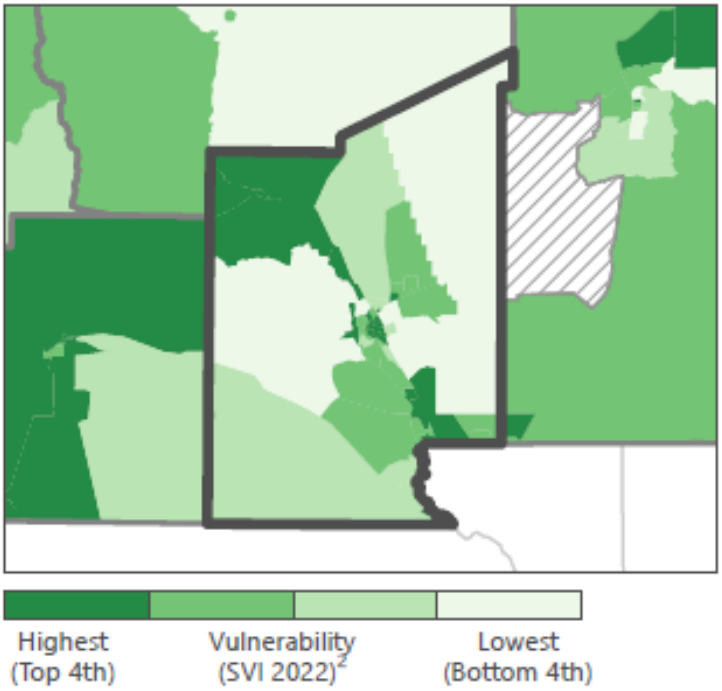
Census tracts with elevated socioeconomic vulnerability often face barriers that limit their ability to prepare for, respond to, and recover from disasters. For example, households with limited income may be unable to afford insurance, emergency supplies, or temporary evacuation costs. Communities with low educational attainment may have reduced access to emergency communications or struggle to navigate recovery programs.

The CDC/ATSDR SVI 2022 map (Figure 3) shows that socioeconomic vulnerability is most pronounced in several areas:

- Border communities such as Sunland Park, Santa Teresa, and Chaparral
- Portions of rural southern Doña Ana County
- Isolated tracts west of Las Cruces, near Mesilla and Vado

These areas often overlap with high percentages of mobile homes, limited vehicle access, and high minority populations - suggesting compound vulnerabilities across multiple themes.

Figure 3: Socioeconomic SVI of Doña Ana County



2.5.3 Household Composition and Disability

The second SVI theme focuses on populations that may require additional support during emergencies due to age, disability, or caregiving responsibilities. This includes five variables:

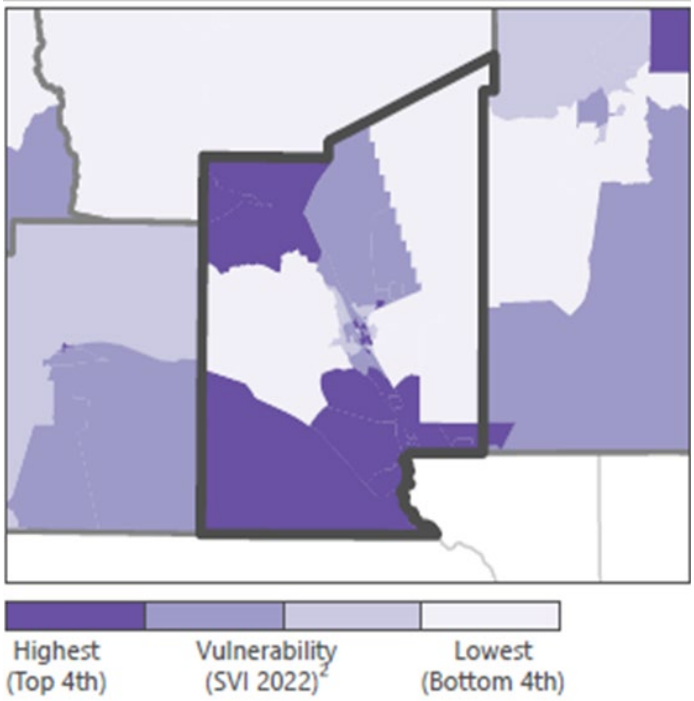
- Percentage of the population aged 65 and older
- Percentage of the population aged 17 and younger
- Percentage of the civilian non-institutionalized population with a disability
- Percentage of single-parent households with children under 18
- Percentage of people aged 5 and older who speak English “less than well”

These factors are often linked to reduced mobility, access challenges, or communication barriers - particularly during evacuations, sheltering, or disaster recovery operations. Older adults may have medical or mobility needs, young children may rely on school-based services, and non-English-speaking residents may not receive timely emergency alerts or public health information.

The CDC/ATSDR SVI 2022 map (Figure 4) indicates elevated vulnerability in areas with concentrated poverty and limited access to services. Notably:

- The southern edge of Doña Ana County, including parts of Sunland Park and Chaparral, shows increased vulnerability across both age and language indicators.
- Several rural tracts west of Las Cruces, as well as parts of the Mesilla Valley, also appear to rank high in this theme.
- Colonias and agricultural communities, which often include families with young children and multigenerational households, are particularly affected.

Figure 4: Household composition SVI of Doña Ana County



By prioritizing these populations in outreach, shelter planning, and accessible communications, the County can reduce disparities in disaster outcomes and improve service equity across the region.

2.5.4 Minority Status and Language

The third theme of the SVI captures two critical dimensions of equity in emergency planning: racial and ethnic minority status, and language access. This theme includes:

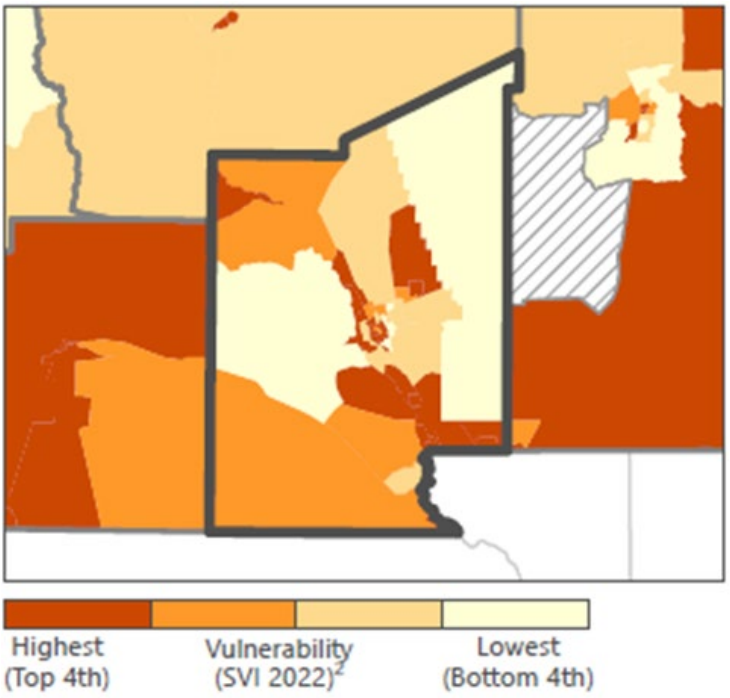
- Percentage of residents who identify as a racial or ethnic minority
- Percentage of residents who speak English "less than well"

These factors are essential in assessing disaster risk because they can shape how information is received, how services are accessed, and how recovery unfolds. Historical and ongoing disparities in income, housing, and health outcomes often mean that minority communities are more exposed to hazard impacts and face greater challenges in rebuilding.

In Doña Ana County, this theme carries particular weight. The CDC/ATSDR SVI 2022 map (Figure 5) shows pronounced vulnerability along the southern U.S.–Mexico border, especially in communities like Sunland Park, Santa Teresa, Berino, Vado, and Chaparral. Many of these areas are characterized by:

- High percentages of Spanish-speaking households
- Longstanding colonia communities with limited infrastructure
- Elevated concentrations of Hispanic/Latino residents

Figure 5: Racial and Ethnic SVI of Doña Ana County



Language access and culturally relevant outreach are critical considerations when planning for emergency alerts, evacuation notices, health messaging, and post-disaster services. As such, mitigation strategies that account for Theme 3 factors can significantly reduce inequities in preparedness and recovery.

2.5.5 Housing Type and Transportation

The final theme of the SVI highlights structural and mobility-related risk factors that affect how residents prepare for and respond to disasters. This theme includes:

- Percentage of housing units that are multi-unit structures
- Percentage of mobile homes
- Percentage of crowded households (more occupants than rooms)
- Percentage of households with no vehicle access
- Percentage of the population living in group quarters (e.g., dorms, prisons, nursing homes)

Each of these factors carries distinct implications for disaster readiness. Mobile homes and crowded housing may be more physically vulnerable to wind or flood damage. Households without vehicles may have difficulty evacuating or reaching points of distribution. Group quarters require tailored strategies for mass care, medical needs, and continuity of operations.

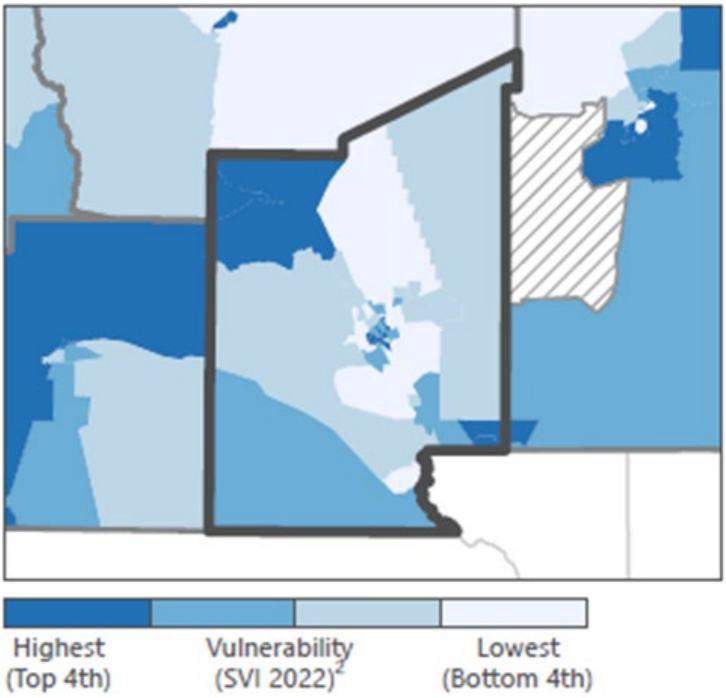
The CDC/ATSDR SVI 2022 map (Figure 6) reveals several areas where housing and transportation vulnerabilities are elevated. In Doña Ana County, these include:

Rural communities along the I-10 and I-25 corridors where mobile homes and vehicle access are common challenges

- Colonias and agricultural settlements near the southern border, where infrastructure gaps may compound housing vulnerability
- Sections of Las Cruces and Mesilla with high densities of renters or multi-family housing units

Addressing housing and transportation vulnerability through mitigation planning may involve hardening structures, identifying evacuation support needs, enhancing shelter accessibility, and improving infrastructure in historically underserved areas.

Figure 6: Housing and Transportation SVI of Doña Ana County



2.5.6 Health Disparity

Although not one of the four core themes in the CDC/ATSDR SVI, acknowledging health disparity is essential to effective mitigation planning. Public health and hazard risk are deeply interconnected - communities with poor baseline health are more likely to suffer severe consequences from disasters and recover more slowly. Chronic illnesses, limited access to care, and systemic inequities can all amplify the impact of emergencies, especially among underserved populations.

In Doña Ana County, many of the same communities that rank high in social vulnerability, such as those along the southern border and in rural colonias, also face persistent health challenges.

These include:

Limited access to healthcare providers and specialty care. Nearly every county in New Mexico, including Doña Ana, is designated as a Health Professional Shortage Area (HPSA), indicating a shortage of primary care services. According to the 100% Community Initiative report, residents frequently cited difficulty accessing local specialists, with many traveling to El Paso or Mexico for care due to limited local options or insurance limitations.

Cost-related barriers to care. In community surveys conducted by the 100% Community Initiative, 18% of adults reported being unable to access needed medical care due to cost. Even among those with insurance, many shared that high out-of-pocket expenses or lack of in-network providers made accessing care difficult.

Behavioral health access issues. The same report found that one-third of residents needed mental health care in the past year, but half of those individuals experienced barriers to accessing it. These barriers included limited provider availability, long waitlists, and costs not covered by insurance.

Elevated rates of mental distress. Data from the SHMP show that 22% of Doña Ana County residents experience frequent mental distress (defined as 14 or more days of poor mental health in a month) - a rate that aligns with state averages but remains higher than national benchmarks.

Environmental health stressors. Survey respondents identified exposure to agricultural chemicals, poor air quality from dust and drought, and inadequate sanitation infrastructure, particularly in rural or colonia communities, as key concerns that compound both everyday health burdens and vulnerability during disasters.

These data points underscore the importance of integrating health equity into hazard mitigation planning. Effective strategies must account not only for physical hazard exposure, but also for the public health and socioeconomic conditions that influence how well communities can respond to and recover from disasters. This includes designing shelter operations, communications, and recovery services that address chronic health conditions, language and transportation barriers, and behavioral health needs in an equitable and inclusive way.

2.6 ECONOMY

Doña Ana County's economy is both diverse and evolving, rooted in agriculture and trade but increasingly shaped by education, health care, government, and service-oriented industries. Its strategic location at the intersection of I-10 and I-25 and its proximity to the U.S.-Mexico border position the county as a regional hub for logistics, cross-border commerce, and binational collaboration.

According to the 2024 U.S. Bureau of Economic Analysis, public administration and real estate together accounted for over 40% of the county's gross domestic product (GDP), followed by health care and social assistance, retail trade, and professional and technical services. These sectors reflect the county's role as a government and university center, home to NMSU, key federal installations, and a growing retirement population.

As highlighted in *Plan 2040* (the Comprehensive Plan for Doña Ana County), Doña Ana is the largest agricultural county in New Mexico by value, with pecans, chile, and onions serving as cornerstone crops. However, the plan also notes a gradual loss of irrigated farmland near urban centers, as well as water constraints and environmental challenges that could reshape the sector in the coming decades.

The *2024 Economic Summary* from the New Mexico Economic Development Department notes that Doña Ana County's economy is becoming more service-driven, with steady growth in professional services, education, and health care. Manufacturing, construction, and tourism also continue to expand, supported by an uptick in gross receipts and employment across multiple sectors.

Protected public lands are another defining feature of the county's economic identity. According to a Headwaters Economics report, more than 75% of land in Doña Ana is federally owned, with portions designated for conservation and recreation. These public lands not only preserve cultural and ecological assets - they also attract visitors, retirees, and new businesses drawn by the region's quality of life. In fact, the report found that counties with wilderness protections tend to outperform those without in terms of per capita income and earnings per job. The Las Cruces area in particular has seen job growth in recreation, hospitality, and professional services tied to its outdoor amenities.

Non-labor income is a rising economic force as well. The same report found that investment income and government transfer payments, including retirement and Medicare, now account for nearly 40% of total personal income in the county - a reflection of national demographic trends and the region's appeal to older adults seeking affordable, high-quality places to live.

Taken together, these factors suggest an economy that is growing, increasingly diversified, and deeply intertwined with both its natural landscape and regional infrastructure. Mitigation efforts should consider how disruptions to sectors like tourism, agriculture, or health care could ripple through the local economy, and in turn prioritize strategies that support resilience for both traditional and emerging industries.

2.7 LAND OWNERSHIP AND DEVELOPMENT TRENDS

Land use and ownership patterns in Doña Ana County play a major role in determining where hazards pose the greatest risk and where mitigation efforts can have the most impact. The county's unique geographic setting along the U.S.-Mexico border, combined with a complex land tenure system and ongoing development pressures, has created a diverse mix of rural, urban, and environmentally sensitive landscapes.

According to *Plan 2040*, more than 75% of land in Doña Ana County is federally owned. The Bureau of Land Management (BLM) oversees most of this land, which supports both ecological integrity and the county's economic identity. Outdoor recreation and tourism, particularly in areas like the Organ Mountains-Desert Peaks National Monument, bring in visitors and preserve open space near expanding communities.

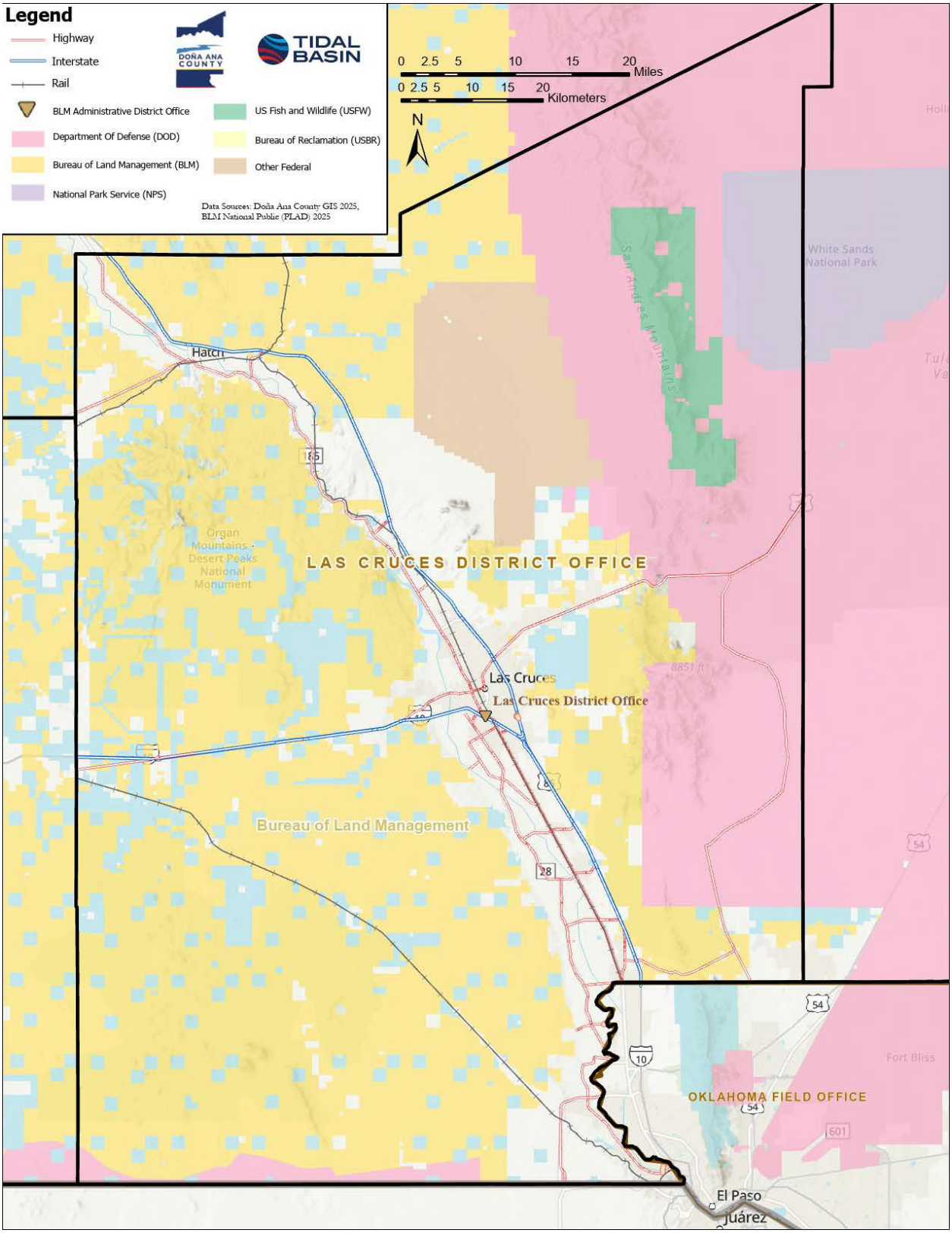
Private lands make up less than one-fifth of the county's total area, yet this is where most residential and commercial development occurs. This imbalance creates concentrated growth pressures near Las Cruces, Sunland Park, and unincorporated communities along the Rio Grande corridor. *Plan 2040* highlights that population growth continues in these areas, driving increased demand for housing, water systems, and transportation infrastructure. In many cases, these needs emerge in places already vulnerable to flooding, drought, or extreme heat.

Colonias underscore some of the most urgent land use challenges. These communities are frequently located in areas with limited water access, outdated septic systems, and few paved roads. Their vulnerability stems not just from geographic exposure, but from long-standing social and economic disparities. While public investments have improved some conditions in colonias, infrastructure gaps in drainage, transportation, and emergency response remain.

The *Headwaters Economics Report* emphasizes that land conservation and smart development are closely linked to economic resilience. Doña Ana County's ability to attract residents and businesses - especially in sectors like healthcare, education, and technology - depends in part on the region's natural beauty and open spaces. If development compromises these assets, it could weaken both environmental protections and long-term economic opportunity.

Looking ahead, land use decisions will need to account for increasing climate-related hazards. Priorities include steering development away from floodplains, protecting infrastructure corridors, and coordinating with public land agencies on wildfire risk and water resource management.

Figure 7: Land Ownership



2.8 COMMUNITY LIFELINES

The community lifelines framework, developed by FEMA, identifies the most essential services that must be stabilized and restored quickly after a disaster to protect life and support response and recovery. While originally designed for emergency operations, this framework can also inform mitigation planning by highlighting where infrastructure, services, and systems are most critical and most vulnerable.

Doña Ana County's lifeline systems include both physical infrastructure (like roads, power grids, and communications towers) and social infrastructure (such as hospitals, shelters, and emergency responders). Many of these systems are interconnected. A disruption in one lifeline, such as electricity, can cascade into others, affecting healthcare delivery, water service, or emergency communications. This section uses the seven FEMA lifeline categories to describe key assets, known vulnerabilities, and considerations for hazard mitigation planning.

2.8.1 Safety and Security

Safety and security services in Doña Ana County are delivered through a network of agencies that includes the Doña Ana County Sheriff's Office, municipal police departments, fire and rescue services, and the OEM. These agencies work in close coordination with regional, tribal, and federal partners, particularly given the County's proximity to the U.S.-Mexico border and several sovereign jurisdictions.

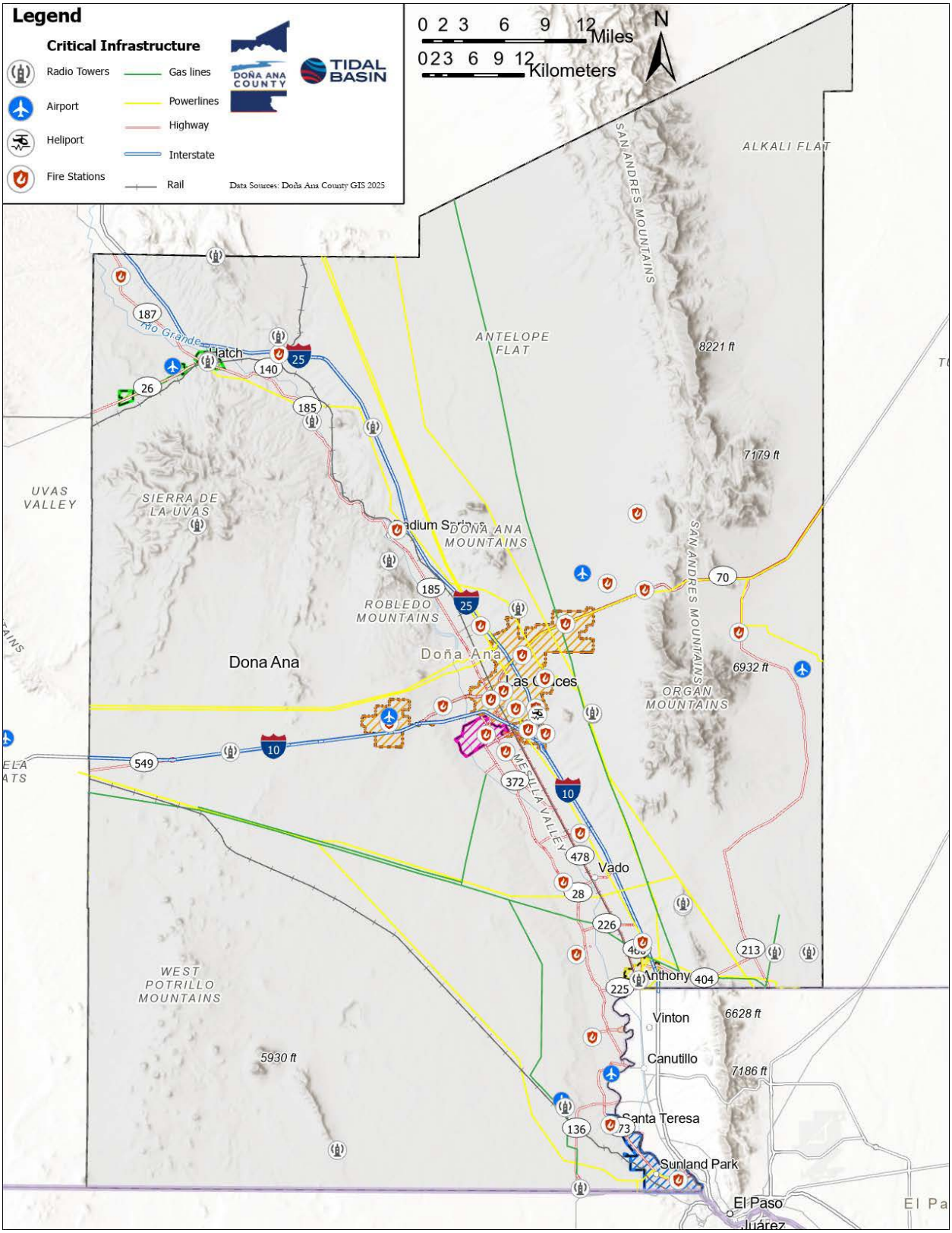
The County Emergency Operations Center (EOC), located in Las Cruces, serves as the central coordination hub during emergencies and major incidents. The Sheriff's Office provides law enforcement services across a broad geographic area, including remote unincorporated communities. Volunteer fire departments are critical in many rural areas, providing both fire protection and medical response, though many face ongoing challenges related to recruitment, training, and equipment maintenance. The County and participating jurisdictions also participate in regional emergency communications systems and mutual aid networks that support coordinated response and situational awareness.

2.8.2 Health and Medical

Health care access in Doña Ana County reflects a complex blend of progress, persistence, and disparity. While the county boasts several health care anchors including La Clinica de Familia (a federally qualified health center), two hospitals, a behavioral health hospital, and the Southern New Mexico Family Medicine Residency Program - gaps in access, affordability, and workforce persist across many communities.

According to the *2025 100% Community Survey*, 88% of respondents reported needing medical care in the past year, yet 43% of those had difficulty accessing it. Mental health needs were also high, with 48% of respondents reporting a need for behavioral health care, up from 35% in 2019. Although access to mental health care has improved slightly, nearly half of residents still face barriers, with provider shortages, high out-of-pocket costs, and lack of culturally competent care cited as key issues.

Figure 8: Critical Infrastructure



Workforce shortages compound these access issues. The state's benchmark of 8.5 primary care physicians per 10,000 residents is not met in Doña Ana, which is currently short by at least 47 physicians. This gap is even more acute for mental health professionals. Rural areas often lack providers entirely, leading to long travel distances for basic care, pharmacy services, and specialty treatment. The situation is especially difficult for residents in colonias and those with limited English proficiency, which report higher-than-average difficulty obtaining timely, affordable care.

The *County Health Rankings* also place Doña Ana in the lower half of New Mexico counties for health outcomes, despite ranking relatively well on health factors. Indicators like low birthweight, preventable hospital stays, and days of poor mental health remain areas of concern. The county has made strides in increasing insurance coverage and bolstering public health education, but structural challenges like underfunded clinics, limited transportation, and socioeconomic disparities continue to shape outcomes.

Locally driven collaborations are working to address these gaps. The *Doña Ana County Health Collaborative's 2016–2019 Action Plan* prioritized the creation of a community-centered health system, with integrated behavioral health, patient-centered care models, and a strong emphasis on prevention, health literacy, and chronic disease management. That work continues under the banner of the Doña Ana County Board of Wellness, which coordinates across providers, educators, and public health leaders to advance a more equitable, accessible system.

2.8.3 Energy and Transportation

Energy and transportation systems form the backbone of community function and economic connectivity in Doña Ana County. These systems enable everything from emergency response to everyday mobility and are deeply intertwined with broader hazard vulnerabilities and regional resilience.

2.8.3.1 Energy Infrastructure

Electricity in Doña Ana County is supplied by a combination of regional investor-owned utilities, co-ops, and local infrastructure operators. Large-scale transmission infrastructure connects the county to the broader Southwest power grid. The county sits near major renewable energy development zones and transmission corridors, including projects like the Hecate solar facility in Santa Teresa, approved by the New Mexico Public Regulation Commission in 2020 as part of a statewide push to expand solar capacity.

The New Mexico Renewable Energy Transmission Authority (RETA) identifies Doña Ana County and the surrounding region as strategically important for exporting wind and solar energy to western states. The SunZia Southwest Transmission Project is expected to increase transmission capacity and provide a path for high-output renewable projects to serve markets in Arizona and California. This infrastructure expansion aligns with the state's Energy Transition Act goals and supports both economic development and decarbonization.

Within the county, energy assets include electric substations, gas distribution lines, and Supervisory Control and Data Acquisition (SCADA) monitored water-energy infrastructure managed by agencies like the Elephant Butte Irrigation District (EBID). Solar energy is permitted

in various land use zones under county ordinance, and new projects are subject to local development and permitting processes.

2.8.3.2 Transportation Infrastructure

Doña Ana County's transportation network includes interstate highways, arterial roads, freight rail, public transit, and international ports of entry. The region's location at the convergence of I-10 and I-25 makes it a critical node for the movement of goods and people across New Mexico, Texas, and northern Mexico. U.S. Highways 70 and 85 provide additional east-west and north-south routes, serving both local and through traffic.

Rail infrastructure is robust and includes the Union Pacific intermodal terminal in Santa Teresa, which handles international freight and supports regional economic growth. Proposed initiatives such as a commuter rail system connecting Las Cruces and El Paso could further strengthen regional mobility, particularly for workforce and emergency access needs.

Local and regional plans, including the *Mesilla Valley MPO's Transport 2040* and the *Border Area Economic Development Strategy*, emphasize the need to upgrade roadways in rural and border communities, expand multimodal options, and invest in overweight truck corridors to improve binational trade efficiency.

While infrastructure quality in central hubs like Las Cruces is relatively high, rural areas face challenges related to aging roads, limited transit access, and gaps in pedestrian and bicycle connectivity. Future planning will require coordinated investments that balance growth, hazard exposure, and long-term sustainability.

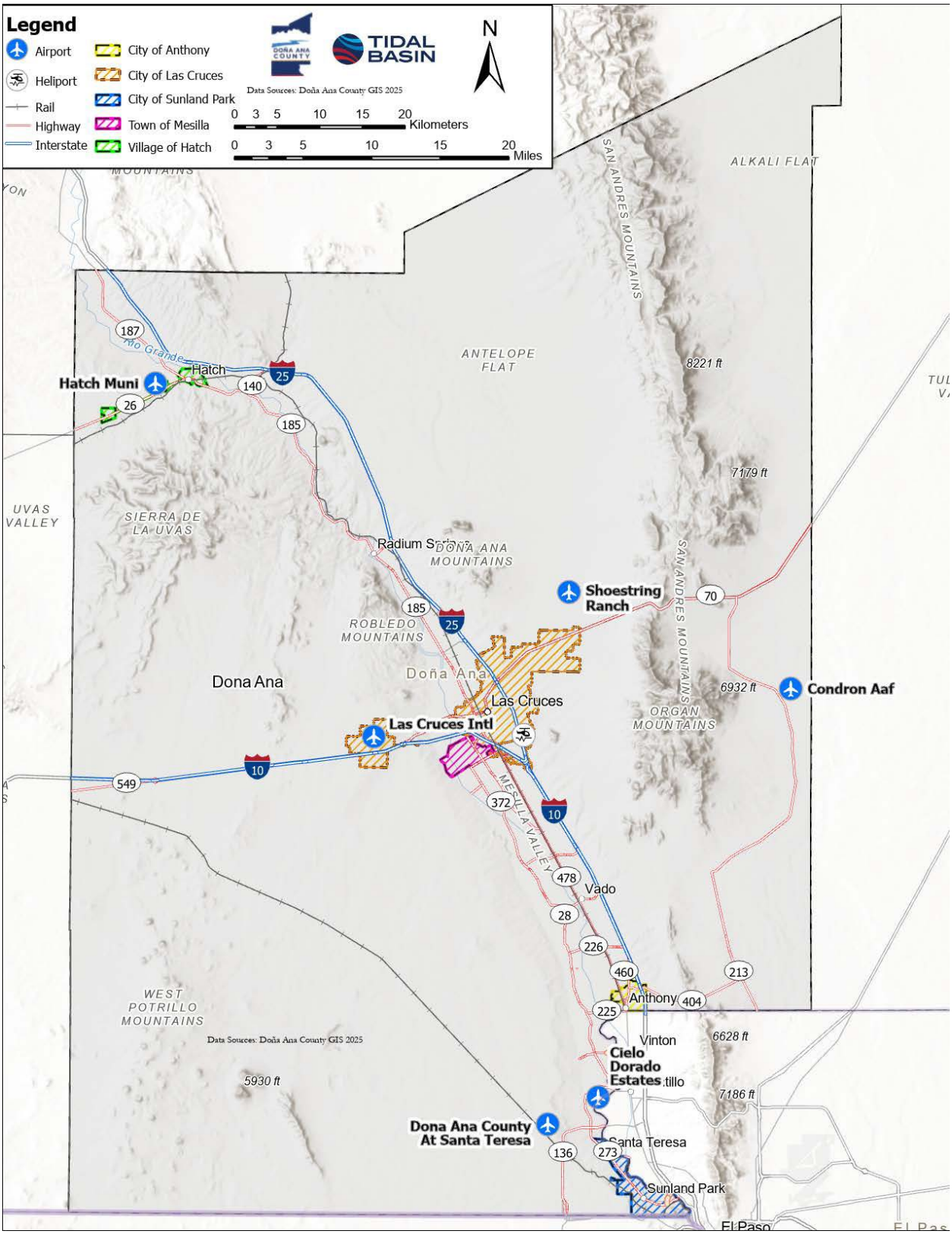
2.8.4 Communications

Access to reliable and affordable communication services is a critical lifeline, particularly during emergencies. Across Doña Ana County, significant disparities exist in broadband infrastructure, digital literacy, and telecommunications access, many of which directly impact the county's most vulnerable residents.

According to the *2022 Doña Ana Broadband Survey*, which gathered over 3,000 responses, more than half of households with internet access reported speeds below the Federal Communications Commission's (FCC) baseline threshold of 25/3 Mbps. Over one-third of respondents rated their internet service as inadequate, citing issues such as slow or inconsistent connections and frequent outages. Additionally, nearly 23% of households in the county reported having no internet access at all, a rate higher than the state average. Of those without access, 75% identified as Hispanic, and most reported household incomes under $21,000.

In rural colonias such as Vado, Rincon, and Garfield, survey data showed high concentrations of unserved households, including many without any internet infrastructure in place. Community outreach teams, including Promotoras, were essential in gathering feedback from these hard-to-reach areas, where affordability, lack of provider options, and digital literacy remain major barriers.

Figure 9: Transportation Infrastructure



Statewide planning efforts further validate these concerns. New Mexico's *BEAD Five-Year Action Plan* identifies the southern portion of Doña Ana County as a priority area for investment due to significant broadband infrastructure and adoption gaps. The State Office of Broadband Access and Expansion (OBAE) notes that affordability and lack of digital literacy disproportionately affect Hispanic, elderly, and low-income populations throughout the county.

Local engagement efforts are building momentum to address these gaps. The County has participated in initiatives such as the Connect New Mexico Pilot Program and the Community Broadband Survey, and it supports regional coordination for fiber and wireless expansion. Investments in infrastructure must be coupled with education and support systems, particularly for non-English speakers and seniors, so that all residents can access and effectively use communication tools during both daily life and emergencies.

2.8.5 Food, Water, Shelter

Access to nutritious food, safe water, and stable housing are foundational needs that directly influence community resilience. In Doña Ana County, persistent socioeconomic disparities, infrastructure challenges, and environmental stressors compromise this lifeline for many residents, particularly in colonias and other rural or underserved areas.

2.8.5.1 Food Access and Insecurity

Despite being home to a vibrant agricultural economy, food insecurity remains a pressing issue. According to Feeding America's *Map the Meal Gap 2024*, approximately 16% of residents in Doña Ana County are food insecure, including over 27% of children. These rates are even higher among colonia residents and non-English-speaking households. Limited public transit and low access to full-service grocery stores exacerbate the challenge, especially in rural and unincorporated areas. While food assistance programs such as Supplemental Nutrition Assistance Program (SNAP), Women, Infants, and Children (WIC), and food banks are active throughout the county, demand outpaces supply, and one-third of those who need services report difficulty accessing them.

Efforts by nonprofits and local government including Casa de Peregrinos, Roadrunner Food Bank, and municipal senior meal programs play a critical role in addressing hunger. However, capacity and funding remain persistent challenges. Initiatives like community gardens, healthy food incentives at markets, and nutrition education through NMSU Cooperative Extension's ICAN program offer promising supplemental strategies.

2.8.5.2 Water Access and Vulnerability

Doña Ana County relies on a mix of surface and groundwater sources, including the Rio Grande and regional aquifers. The EBID provides water for agriculture, while roughly 110 domestic water systems supply municipal needs. However, the region faces ongoing stress from drought, aquifer depletion, and water quality issues such as arsenic and salinity contamination. Over 80% of the county's groundwater is used for agriculture, and competition between agricultural and municipal users has intensified during dry periods.

The county's per capita water use is significantly higher than state and national averages (182 gallons per person per day, compared to 161 in New Mexico and 145 nationally). *Plan 2040* outlines conservation goals and sustainable water management strategies, including rainwater harvesting, infrastructure upgrades, and coordination across agencies.

2.8.5.3 Shelter and Housing Insecurity

Safe, stable, and affordable housing is out of reach for many in Doña Ana County. As of the most recent community survey, 58% of renters face a high housing burden, and 27% are severely burdened, spending more than half of their income on housing. Waitlists for housing services, such as those managed by the Mesilla Valley Public Housing Authority, range from two to six years. The county experiences nightly unsheltered homelessness for 200–300 individuals, with many more in precarious living conditions.

The *Las Cruces Affordable Housing Investment Strategy* notes that a growing share of families cannot afford either rental or for-sale homes under current market conditions, especially as housing inflation outpaces income growth. Vulnerable populations include single-parent households, the elderly, and individuals experiencing compounding financial stress.

2.8.6 Hazardous Materials

Doña Ana County's proximity to key transportation corridors and industrial zones increases the importance of hazardous materials management as part of both daily operations and disaster planning. With regular movement of chemicals, petroleum products, and radioactive materials through roadways, rail, and pipelines, ensuring robust mitigation and emergency response systems is critical.

2.8.6.1 Transportation and Facility Risks

Hazardous materials regularly transit the I-10 and I-25 corridors, as well as the Union Pacific intermodal facility in Santa Teresa. The Doña Ana County Local Emergency Planning Committee (LEPC) and State Emergency Response Commission (SERC) have long documented the transport of petroleum, fertilizers, solvents, and other potentially hazardous materials through the region and there are numerous records of past hazardous materials (HAZMAT) incidents, including gas line breaks, sewage releases, and vehicle collisions involving hazardous cargo.

Additionally, fixed facilities in the county store and use chemicals in agriculture, energy, and manufacturing operations. These facilities are subject to Tier II reporting requirements under the Emergency Planning and Community Right-to-Know Act (EPCRA), though gaps in local inventory data have been noted by the SERC and state agencies. Illegal dumping of hazardous materials, particularly in rural areas, has also been identified as a recurring public health concern, prompting mitigation actions aimed at public education and code enforcement.

2.8.6.2 Legacy Sites and Contamination

Doña Ana County contains multiple sites of legacy contamination. The Griggs and Walnut Ground Water Plume Superfund Site in Las Cruces is one of the most prominent, with long-term remediation in place to address groundwater contamination from industrial solvents. The Environmental Protection Agency's (EPA) five-year review confirmed ongoing treatment effectiveness but recommended continued monitoring and infrastructure upgrades to prevent plume migration.

Additional environmental health concerns are associated with waste sites linked to military and space testing facilities. At the White Sands Test Facility, restoration and cleanup efforts continue to address soil and groundwater contamination resulting from propulsion and materials testing. State and federal partners including the New Mexico Environment Department (NMED) and the Office of Natural Resources Trustee are coordinating on these efforts.

2.8.6.3 Preparedness and Coordination

Doña Ana County participates in statewide hazardous materials planning through its LEPC and emergency management office. The county has received past support from the Hazardous Materials Emergency Preparedness (HMEP) Grant to fund planning, training, and equipment for local responders. However, stakeholder feedback continues to point to the need for updated data systems, greater transparency in industrial operations, and consistent public messaging on hazardous material safety.

2.9 COMMUNITY CAPABILITIES ASSESSMENT

Understanding each jurisdiction's existing capacity to support hazard mitigation is essential to developing a realistic and actionable mitigation strategy. As part of the planning process, all participating jurisdictions completed a capability assessment, reporting their current planning, regulatory, administrative, technical, financial, and outreach resources. This section summarizes the results of that assessment, highlighting both shared strengths and common gaps across the planning area. These findings help ensure that the mitigation actions proposed in Section 4 are aligned with local capabilities and implementation potential.

Communities may indicate the presence of a capability even if it is not managed directly by the jurisdiction itself. For example, some jurisdictions may be included in a broader countywide or regional initiative, such as the Doña Ana All-Hazards Emergency Operations Plan (AHEOP), even if they do not maintain their own stand-alone plan. In these cases, jurisdictions are encouraged to reflect their access to or participation in shared capabilities, recognizing that interjurisdictional coordination is often essential to effective hazard mitigation.

For the following tables, a • symbol indicates primary ownership of a capability, while a * symbol indicates access to this capability.

2.9.1 Planning and Regulatory Capabilities

Planning and regulatory capabilities include codes, ordinances, policies, laws, plans and programs that guide growth and development. These capabilities can either support risk reduction or create areas that are more vulnerable to disaster.

Table 5: Planning Capabilities

Jurisdiction	Capital Improvement Plan	Climate Change Adaptation Plan	Community Wildfire Protection Plan	Comprehensive /Master Land Use Plan	Continuity of Operations Plan	Disaster Recovery Plan	Economic Development Plan	Emergency Operations Plan	Flood Mitigation Plan	Stormwater Management Plan	Transportation Plan	Other Relevant Plan(s)
Doña Ana County	•		•	•	•	•		•	•	•	*	
City of Anthony			*					*			*	
City of Las Cruces	•	•	*	•	•		•	*		•	•	
City of Sunland Park	•		*	•		•	•	*	•		•	
Elephant Butte Irrigation District			*					*	•	•		
New Mexico State University	•		*	•	•		•	*			•	
Town of Mesilla			*	•				*			*	
Village of Hatch			*	•			•	*			*	

OEM oversees plan development and maintenance of several plans that are inclusive of all jurisdictions within Doña Ana County including the CWPP and AHEOP. Similarly, South Central Regional Transit District oversees a regional transportation plan.

Table 6: Regulatory Capabilities

Jurisdiction	Building Code	Floodplain Management Ordinance	NFIP Adoption / Compliance	Fire Department Inspections	Property Maintenance Code	Site Plan Development Review	Zoning Ordinance	Other Hazard-Specific Ordinance(s)
Doña Ana County	•	•	•			•	•	
City of Anthony		•					•	
City of Las Cruces	•	•	•	•	•	•	•	•
City of Sunland Park	•	•		•	•	•	•	
Elephant Butte Irrigation District	•			•		•		
New Mexico State University								
Town of Mesilla	•	•				•	•	
Village of Hatch		•					•	

2.9.2 Administrative and Technical Capabilities

Administrative and technical capabilities include staff, skills and tools. These capabilities can be used for mitigation planning and to carry out specific mitigation actions. They also include the ability to access, coordinate and implement these resources effectively.

Table 7: Administrative Capabilities

Jurisdiction	Local Emergency Planning Committee	Office of Emergency Management	Code Enforcement Department	Engineering Department	Purchasing Department	Planning Commission	Public Utility Board	Public Works Department	Board of Education	Other Administrative Capability
Doña Ana County	•	•	•	•	•	•			•	
City of Anthony	*	*	•		•	•		•		•
City of Las Cruces	*	*	•	•	•	•	•	•		
City of Sunland Park	*	*						•		
Elephant Butte Irrigation District	*	*		•	•					
New Mexico State University	*	*			•			•		
Town of Mesilla	*	*				•		•		•
Village of Hatch	*	*	•		•			•		

OEM provides emergency management services for all incorporated and unincorporated areas of Doña Ana County.

Table 8: Technical Capabilities

Jurisdiction	Chief Building Officer	Civil Engineer (Construction Project Management)	Grant Administrator	Grant Writer	Other Technical Capability
Doña Ana County	•	•	•		
City of Anthony					
City of Las Cruces	•	•	•		
City of Sunland Park			•		
Elephant Butte Irrigation District		•			
New Mexico State University	•	•	•		
Town of Mesilla					
Village of Hatch					

2.9.3 Financial Capabilities

Financial capabilities include resources available to fund mitigation actions.

Table 9: Financial Capabilities

Jurisdiction	Capital Improvement Program	Community Development Block	Federal Programs (non-FEMA)	FEMA – Hazard Mitigation Assistance	FEMA – PA 406 Mitigation	Funding Programs – State	Funding Programs – Philanthropic	General Obligation / Special Tax Bonds	Impact Fees for New Development	Tax Levies for Specific Purposes	Utility Service Fee	Other Funding Capability
Doña Ana County	•	•	•	•	•	•	•	•	•	•	•	
City of Anthony		•	•	•	•	•	•				•	
City of Las Cruces	•	•	•	•	•	•	•	•	•	•	•	
City of Sunland Park		•	•	•	•	•	•	•		•		
Elephant Butte Irrigation District	•		•	•	•		•			•	•	
New Mexico State University	•			•	•		•	•				
Town of Mesilla		•		•	•	•	•		•		•	
Village of Hatch		•		•	•	•	•				•	

2.9.4 Education and Outreach Capabilities

Education and outreach capabilities include programs and methods that Doña Ana County and its communities can use to communicate about and encourage risk reduction.

Table 10: Education and Outreach Capabilities

Jurisdiction	Firewise Community Designation	StormReady Community Designation	Preparedness Month (Sept.) Campaign	Seasonal Hazard Campaign(s)	School Programs (Be a Hero! STOP! Etc.)	Other Education and Outreach Capability
Doña Ana County		•		•		•
City of Anthony		*		*		*
City of Las Cruces		*		*		*
City of Sunland Park		*		*		*
Elephant Butte Irrigation District		*		*		*
New Mexico State University		*		*		*
Town of Mesilla		*		*		*
Village of Hatch		*		*		*

In addition to formal programs identified by participating jurisdictions, OEM actively engages in a range of education and outreach initiatives aimed at increasing public awareness, preparedness, and community resilience. These efforts include participation in National Night Out, in partnership with the Medical Reserve Corps (MRC) and Local Emergency Planning Committee (LEPC); hosting community CPR and first aid training; providing public sandbagging education ahead of seasonal flood risks; and conducting tabletop exercises (TTXs) for unincorporated communities to build local response capabilities. OEM staff also regularly attend County Commissioner community meetings as invited speakers to share hazard information and preparedness resources. Additionally, OEM coordinates with multiple public safety partners to table at the County Fair, helping disseminate information and engage with residents on a wide range of emergency management topics.

2.9.5 Floodplain Management and NFIP Participation

Flood risk remains a significant concern for several jurisdictions across Doña Ana County. Participation in the National Flood Insurance Program (NFIP) provides communities with access to affordable flood insurance, promotes sound floodplain management practices, and is a key component of federal disaster aid eligibility.

As of July 2025, five of the eight participating jurisdictions are enrolled in the NFIP. Of those, two maintain active Community Rating System (CRS) participation, reflecting efforts to go beyond minimum NFIP standards to reduce flood risk and insurance premiums.

Each participating jurisdiction was asked to report on its floodplain management capacity as part of the mitigation planning process. This included current ordinance enforcement, staffing for floodplain management activities, outreach efforts, and any known repetitive loss (RL) or severe repetitive loss (SRL) properties in their community.

Table 11 summarizes each jurisdiction's current NFIP status, CRS participation, and local capacity to implement floodplain management activities. Table 12 identifies each community's floodplain manager or if the position is vacant.

Table 11: Community NFIP Participation

Jurisdiction	Participation in the NFIP (Y/N)	CRS Class (if any)	Floodplain Ordinance Adopted (Y/N)
Doña Ana County	Y	Y	Y
City of Anthony	N	N	N
City of Las Cruces	Y	Y	Y
City of Sunland Park	Y	N	Y
Elephant Butte Irrigation District	N	N	N
New Mexico State University	N	N	N
Town of Mesilla	Y	N	Y
Village of Hatch	Y	N	Y

Table 12: Community Floodplain Manager

Jurisdiction	Name / Position of Floodplain Manager (or vacant)
Doña Ana County	Michael Garza, P.E., CFM – Engineer Supervisor, Flood Commission
City of Anthony	n/a
City of Las Cruces	Angela Armijo, CFM, CST II, Senior Engineering Tech - Flood
City of Sunland Park	Mario Juarez-Infante, City Mayor
Elephant Butte Irrigation District	n/a
New Mexico State University	n/a
Town of Mesilla	Vacant
Village of Hatch	Michael Garza, P.E, CFM Engineer Supervisor Flood Commission

The Town of Mesilla acknowledges that the Floodplain Administrator (FPA) position, previously held by municipal staff, became vacant, and at the time this plan was prepared the Town was actively seeking a qualified replacement. Because participation in the National Flood Insurance Program (NFIP) requires each jurisdiction to have a designated FPA or formally authorized designee, until a permanent FPA is appointed, the Town will assign interim duties to a qualified staff member to maintain permit review, enforcement, recordkeeping, and public assistance functions.

2.9.5.1 Floodplain/Flood Damage Prevention Ordinances

Floodplain and flood damage prevention ordinances establish local requirements for managing development in identified flood hazard areas and reducing the risk of flood-related losses. These ordinances typically align with, and in some cases exceed, the minimum standards of the NFIP. By regulating construction, land use, and other activities in flood-prone areas, communities can limit exposure to flood hazards, protect public safety, and maintain eligibility for federal flood insurance and disaster assistance programs.

For NFIP-participating jurisdictions, strong and well-enforced ordinances can also contribute to improved CRS scores, which may reduce flood insurance premiums for property owners. Table 13 identifies the current floodplain or flood damage prevention ordinance(s) in effect for each participating jurisdiction.

Table 13: Community Flood Damage Prevention Ordinances

Jurisdiction	Code Reference
Doña Ana County	Dona Ana County NM Development, 35-604 – Flood Damage Prevention
City of Las Cruces	Chapter 34 Article 2 – Flood Damage Prevention
City of Sunland Park	Title 12, Chapter 1 – Flood Damage Prevention
Town of Mesilla	Mesilla Town Code, Chapter 15.05 – Flood Damage Prevention
Village of Hatch	Code of Ordinances, Chapter 15.16 – Flood Damage Prevention

2.9.5.2 Repetitive Loss/Severe Repetitive Loss

A Repetitive Loss Property (as defined by FEMA/NFIP) is a structure covered under a National Flood Insurance Program flood insurance policy that has had at least two paid flood loss claims exceeding $1,000 each within any 10-year period since 1978.

A Severe Repetitive Loss (SRL) Property (typically a residential [1–4 family] structure) must meet one of the following criteria, according to FEMA and the Flood Insurance Reform Act of 2004:

- It has incurred four or more separate NFIP claims, each exceeding $5,000, with the cumulative amount exceeding $20,000, or
- It has had at least two separate claims (building payments only) where the cumulative payments exceed the market value of the building.

Additionally, for a SRL designation, at least two of the qualifying claims must occur within a 10-year period, and claims made within 10 days of each other are counted as a single claim.

Table 14: Repetitive Loss/Severe Repetitive Loss Properties

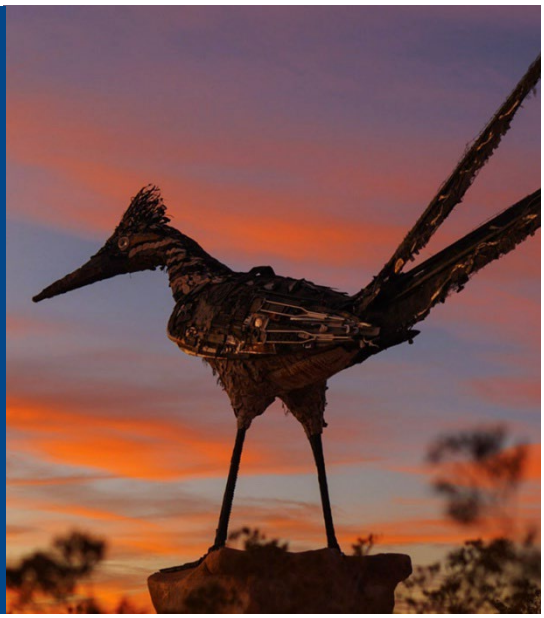
Jurisdiction	RL Properties	SRL Properties
Doña Ana County	0	0
City of Las Cruces	1*	0
City of Sunland Park	0	0
Town of Mesilla	0	0
Village of Hatch	0	0

* FEMA notes one RL property, however the jurisdiction does not show one on file.

2021 Mitigation Plan Success Story

City of Las Cruces
Building Code Review; Update and/or Adoption

By reviewing and updating local building codes to align with current New Mexico state regulations and FEMA's hazard-resistant standards, the City of Las Cruces enhances the safety and durability of structures against region-specific threats such as wildland-urban interface fires, and flash flooding. These updates not only reduce potential property damage and loss of life during disasters but also lower long-term recovery costs and improve eligibility for federal mitigation funding.



2.9.6 Planned Capability Improvements

Each jurisdiction was asked to identify specific opportunities to strengthen local mitigation capabilities, including planning, staffing, technical expertise, and regulatory frameworks. These opportunities directly informed the development of jurisdiction-specific mitigation actions in Section 4.



The **City of Anthony** will develop updated building code ordinances to strengthen structural resilience against natural hazards such as floods, wildfires, and high winds. This effort will begin with a comprehensive review of current codes and an assessment of hazard vulnerabilities in the built environment. The City of Anthony will collaborate with building officials, engineers, emergency managers, and planning staff to draft ordinance updates that incorporate hazard-specific standards, including elevation requirements, fire-resistant materials, and wind-load specifications. Public input will be gathered through community meetings and stakeholder engagement. Once adopted, the updated ordinances will be enforced through permitting and inspection processes, with training provided to contractors and code enforcement personnel to ensure consistent application and compliance.

The **City of Las Cruces** has identified opportunities to strengthen its mitigation capacity by updating its EOP. Over the next five years, the City Las Cruces will revise its EOP through a collaborative process involving emergency services, public health officials, utility providers, and local government departments. The updated EOP will define roles and responsibilities, establish communication protocols, and incorporate hazard-specific annexes for events such as floods, wildfires, and severe storms. Training exercises and simulations will be conducted to validate the plan and ensure operational readiness. The jurisdiction will also implement a continuous improvement cycle, including regular reviews and updates based on lessons learned and evolving threats.



The **City of Sunland Park** will develop updated building code ordinances to strengthen structural resilience against natural hazards such as floods, wildfires, and high winds. This effort will begin with a comprehensive review of current codes and an assessment of hazard vulnerabilities in the built environment. The City of Sunland Park will collaborate with building officials, engineers, emergency managers, and planning staff to draft ordinance updates that incorporate hazard-specific standards, including elevation requirements, fire-resistant materials, and wind-load specifications. Public input will be gathered through community meetings and stakeholder engagement. Once adopted, the updated ordinances will be enforced through permitting and inspection processes, with training provided to contractors and code enforcement personnel to ensure consistent application and compliance.

Doña Ana County has identified opportunities to strengthen its mitigation capacity by improving its regulatory framework, technical understanding of infrastructure risk, and public outreach capacity. Over the next five years, the County will evaluate and update its building codes to the latest International Building Code series, which will strengthen planning and regulatory capability by supporting more resilient construction standards and improving consistency with state requirements. The County will also enhance its administrative and technical capability by developing a comprehensive inventory and vulnerability assessment of county-owned public works infrastructure, including dams, channels, culverts, roads, storm drains, and wastewater facilities. This effort will provide better data for maintenance planning, risk identification, and prioritization of future mitigation investments. In addition, Doña Ana County will expand its education and outreach capability by creating and maintaining a centralized bilingual public hazard education toolkit that can be used across jurisdictions to provide consistent, accessible information on local hazards and mitigation practices. Together, these actions will improve the County's ability to plan for, communicate about, and implement effective long-term hazard mitigation.

The **Elephant Butte Irrigation District** has identified opportunities to strengthen its mitigation capacity by improving flood planning, dam emergency preparedness, and technical data management. Over the next five years, EBID will collaborate with staff and key stakeholders to develop a comprehensive floodwater mitigation plan that addresses regional vulnerabilities, management strategies, and future flood control needs, thereby strengthening its planning capability and improving coordination with partner agencies. EBID will also expand its administrative and technical capability by preparing and submitting Emergency Action Plans for its flood control dams in Doña Ana County, establishing clearer protocols for coordination and communication with emergency managers during extreme rainfall and dam-related incidents. In addition, EBID will support development of a countywide GIS-enabled database of repetitive problem areas, which will improve technical capacity for identifying hazard hot spots, prioritizing mitigation projects, and supporting future funding requests. Together, these actions will enhance EBID's ability to assess risk, coordinate mitigation activities, and support long-term flood resilience across its service area.

New Mexico State University has identified opportunities to strengthen its mitigation capacity by improving facility design standards, expanding technical planning for stormwater management, and enhancing emergency communications. Over the next five years, NMSU will develop and enforce water conservation design standards for campus facilities, which will strengthen planning and regulatory capability by incorporating sustainable landscaping and building features that reduce water demand and improve resilience to drought. The University will also expand its administrative and technical capability by advancing phased assessments of its storm drainage system to evaluate capacity, identify deficiencies, and determine the feasibility of recommended flood mitigation projects. This effort will provide a stronger technical basis for long-term stormwater planning and future capital improvements. In addition, NMSU will maintain

and enhance its multi-hazard emergency notification system to provide timely, actionable alerts for a wide range of hazards, improving the University's ability to communicate protective information and support preparedness for students, staff, and visitors. Together, these actions will improve NMSU's ability to plan for, assess, and communicate hazard risks in support of long-term mitigation.

The **Town of Mesilla** has identified opportunities to strengthen its mitigation capacity by advancing targeted projects, partnerships, and public education initiatives to reduce hazard risks and protect critical community assets. Over the next five years, the Town will perform repairs and maintenance to critical systems, including the Public Safety Building and water system facilities, to ensure they can withstand severe weather impacts, supported by the installation of a backup power generator to maintain operations during outages. Stormwater infrastructure will be inspected and repaired to better manage runoff during flood events, while participation with the Doña Ana County Flood Commission will help develop a countywide Flood Warning and Response System, incorporating localized gage placement and targeted alerts. Hazardous materials risks will be reduced through stricter ordinance enforcement, and public safety will be enhanced through implementation of the National Weather Service's "Turn Around Don't Drown" campaign, including signage, barricades, and community outreach. The Town will also collaborate with the County on drought awareness campaigns and promote drought-resistant landscaping, improve emergency communications capacity, and strengthen wildfire resilience through defensible space creation, Firewise Communities practices, and ongoing public education on fire risks.

The **Village of Hatch** has identified opportunities to strengthen its mitigation capacity by advancing projects and initiatives that directly reduce hazard risks and enhance community resilience. Over the next five years, the Village will prioritize drainage system upgrades along Hall Street and Franklin Street, and improvements to wastewater treatment and lift stations to protect against flood-related damage. Planned investments will also support the purchase of emergency preparedness equipment and the hardening of critical facilities, including upgrades to the fire station to improve operational continuity during disasters. In addition, the Village will pursue hazard mitigation and disaster recovery grant funding to support these initiatives and will implement land use and zoning updates to limit development in flood-prone areas while encouraging hazard-resistant construction standards.

Many of these actions are reflected in the county's updated hazard mitigation strategy presented in Section 4.

3 HAZARD IDENTIFICATION AND RISK ASSESSMENT

3.1 HAZARD OVERVIEW

This section provides an overview of the hazards that pose a risk to Doña Ana County and its participating jurisdictions. It begins with a summary of past disaster declarations to highlight the types of events that have historically impacted the region. It then outlines the process used to identify and select hazards for assessment in this plan, incorporating both historical data and local input. Next, an in-depth analysis of each hazard is provided. Finally, it presents a ranking of these hazards based on their relative risk to the planning area, which helps prioritize mitigation efforts in subsequent sections.

3.1.1 Doña Ana County Disaster Declarations

Since 1955, Doña Ana Couty has directly received or been a part of nine disaster declarations, displayed in Table 15. Hazard impacts are described within Section 3.

Table 15: Doña Ana County disaster declarations

Declaration(s)	Year	Incident Type	Declaration Title	Assistance
DR-4886-NM	2025	Weather	New Mexico Severe Storms, Flooding, and Landslides	IA, PA-A, PA-B, PA-C, PA-D, PA-E, PA-F, PA-G
FEMA-4529-DR	2021	Public Health	New Mexico Covid-19 Pandemic	IA, PA-B
EM-3460-NM	2020	Public Health	New Mexico Covid-19	PA-B
FEMA-4152-DR	2013	Weather	Severe Storms, Flooding, and Mudslides in New Mexico	PA-A, PA-B, PA-C, PA-D, PA-E, PA-G
FEMA-1659-DR	2007	Weather	Severe Storms & Flooding in New Mexico	IA, PA-A, PA-B, PA-C, PA-D, PA-E, PA-F
EM-3229-NM	2005	Weather	New México Hurricane Katrina Evacuation	PA-B
DR-1329-NM	2000	Fire	New Mexico New Mexico Wildfire	IA
EM-3154-NM	2000	Fire	New Mexico New Mexico Fire	PA
DR-1301-NM	1999	Weather	New Mexico Severe Storms and Flooding	PA-A, PA-B, PA-C, PA-D, PA-E, PA-F, PA-G
DR-353-NM	1972	Weather	New Mexico Heavy Rains, Flooding	IA, PA-A, PA-B, PA-C, PA-D, PA-E, PA-F, PA-G

3.1.2 Identification of Hazards

The hazard identification process began with a review of the hazards profiled in the 2021 AHMP. During the hazard identification process, the LPT confirmed that all participating jurisdictions experience the same set of natural hazards identified in this plan. No jurisdiction identified additional unique hazards that are not experienced across the broader planning area.

Each hazard was evaluated based on updated data, and local experience. During this review, the LPT identified an emerging concern (dust storms) as a hazard that has become increasingly frequent and impactful across New Mexico, including within Doña Ana County.

Figure 10: Emergency Management Risk Equation



Based on this trend and recent local experiences, the LPT agreed to clarify that dust storms are a part of severe winds in the 2026 plan. The final list of hazards identified for assessment in this plan reflects both ongoing threats and evolving risk patterns affecting the region.

While the overall hazard list is consistent across jurisdictions, localized differences in exposure, vulnerability, and potential impacts are reflected in the hazard-specific vulnerability assessments throughout Section 3, as well as in the comparative hazard rankings presented in Section 3.4.2.

3.2 RISK ASSESSMENT AND METHODOLOGY

A risk-based framework was used to assess the hazards facing Doña Ana County and its participating jurisdictions. Risk in the context of hazard mitigation is commonly defined by the Risk Equation that Risk equals threat times vulnerability times consequence

This approach allows for a comprehensive analysis of each hazard by examining its potential to occur (threat), the degree to which people and systems are susceptible to harm (vulnerability), and the potential severity of outcomes (consequence). Each hazard included in this plan was analyzed using this framework, with specific assessment components tied to each element of the risk equation.

3.2.1 Threat

Threat is defined as the potential of a hazard to occur and cause harm within the planning area. Assessing the threat level of each hazard helps to understand the likelihood and severity of future events. For each identified hazard, the following elements were evaluated:

- **Hazard profile.** A general overview of the hazard and how it manifests in the region
- **Location.** Geographic areas within the County most likely to be affected
- **Extent.** The potential magnitude or severity of the hazard and how it is measured
- **History.** Record of previous events and impacts
- **Probability.** Likelihood of the hazard occurring again in the future
- **Climate change impacts.** Consideration of how climate trends may alter the frequency, duration, or severity of the hazard

3.2.2 Vulnerability and Consequence

Vulnerability refers to the susceptibility of Doña Ana County's people, property, infrastructure, and systems to damage or disruption from a given hazard.

Consequence describes the expected impacts of a hazard event should it occur. While detailed scenario modeling was not conducted for every hazard, reasonable assumptions were made based on past events, local knowledge, and planning expertise.

Each hazard was evaluated for its potential to affect:

- **People**. Includes at-risk populations such as children, the elderly, individuals with disabilities, and socially vulnerable communities
- **Property**. Structures and assets located within hazard-prone areas
- **Environment**. Natural systems that may be degraded or disrupted
- **Government operations**. The ability of jurisdictions to maintain services and continuity during or after a hazard event

This structured assessment of each hazard forms the foundation for prioritizing risk and developing targeted mitigation actions, as presented in the following sections of this plan. Hazard analysis for each hazard identified in the AHMP is presented in Section 3.3.

3.2.3 Local Development Changes and Evolving Risk

As part of the plan update process, participating jurisdictions were asked to identify any significant changes in development (residential, commercial, industrial, or infrastructure) that have occurred in hazard-prone areas since the previous plan was approved. This includes both

increases and decreases in development that may affect the community's overall vulnerability to natural hazards. The information gathered was used to inform the updated risk assessment and mitigation strategy, ensuring that local context and current conditions are reflected in the plan.

Table 16 outlines local development changes identified by each jurisdiction that may influence vulnerability, either by increasing exposure in hazard-prone areas or reducing risk through improved siting, design, or mitigation measures.

Table 16: Local Development Impact on Vulnerability

Jurisdiction	Observation	Impact on Vulnerability
City of Anthony	From 2021 onward, the City of Anthony has focused on refining its land use regulations and zoning ordinances to support sustainable development while mitigating risks associated with natural hazards. The city's Planning and Zoning Commission plays a central role in overseeing new subdivisions, mobile home installations, and infrastructure projects, ensuring that all development complies with hazard mitigation standards. Anthony's zoning framework includes performance districts and community districts that guide residential, commercial, and industrial development intensity. These regulations aim to prevent uncontrolled land use and protect residents from environmental and flood-related hazards. The city continues to face seasonal flooding challenges, particularly in areas near the Lauson and Anthony dams, and has maintained its commitment to flood control infrastructure improvements. The 2021 All Hazards Mitigation Plan, developed collaboratively with Doña Ana County and neighboring jurisdictions, remains a cornerstone of Anthony's risk management strategy. It includes updated vulnerability assessments and mitigation actions that reflect recent development trends and community input. The city's efforts to balance growth with resilience are evident in its zoning updates, which promote compatible land uses, open space planning, and infrastructure adequacy.	Decrease
City of Las Cruces	The City of Las Cruces continues to regulate and mitigate development in hazard-prone areas through strict enforcement of its floodplain ordinance (Ord. 3050, effective March 3, 2025). A recent example is the Letter of Map Revision based on Fill (LOMR-F) and installation of engineered flood venting at 801 E. Farney, which successfully reduced the structure's vulnerability to flood damage while maintaining NFIP compliance. These measures ensure that redevelopment in flood hazard	Decrease

Jurisdiction	Observation	Impact on Vulnerability
	areas decreases overall vulnerability rather than increasing it. Las Cruces' CRS Class 7 standing with 1,616 credit points (the highest in New Mexico) demonstrates measurable effectiveness in reducing flood vulnerability community wide.	
City of Sunland Park	Since 2021, Sunland Park has continued its trajectory of rapid growth, driven by its strategic location at the intersection of New Mexico, Texas, and Chihuahua, Mexico. The City has updated its Land Development Code to align with its comprehensive master plan, emphasizing orderly development, infrastructure adequacy, and hazard mitigation. Residential expansion remains robust, with a wide range of housing options from entry-level to high-end homes, supported by New Mexico's relatively low property taxes. The City has prioritized safe neighborhood design and integrated zoning and subdivision regulations to manage growth in hazard-prone areas. A major development initiative includes the proposed non-commercial border crossing project, "El Camino Real Al Centro," which is expected to significantly boost economic activity and infrastructure demands. This project, once approved through diplomatic channels, could increase population density and traffic, necessitating enhanced flood control and emergency preparedness. Sunland Park's updated zoning includes overlay districts and special provisions for entertainment and mixed-use developments, which are expanding in the city's core. These changes reflect a shift toward higher-density, multi-functional urban planning. However, the city remains vulnerable to natural hazards such as flooding from the Rio Grande and extreme weather events. The 2021 All Hazards Mitigation Plan, developed in coordination with Doña Ana County and other jurisdictions, outlines mitigation strategies tailored to these evolving risks.	Increase
Doña Ana County	No development trends were observed that are anticipated to impact vulnerability to natural hazards.	N/A
Elephant Butte Irrigation District	No development trends were observed that are anticipated to impact vulnerability to natural hazards.	N/A
New Mexico State University	No development trends were observed that are anticipated to impact vulnerability to natural hazards.	N/A

Jurisdiction	Observation	Impact on Vulnerability
Town of Mesilla	No development trends were observed that are anticipated to impact vulnerability to natural hazards.	N/A
Village of Hatch	No development trends were observed that are anticipated to impact vulnerability to natural hazards.	N/A

3.3 HAZARD ANALYSIS

Understanding the risks that natural hazards pose to Doña Ana County is foundational to effective mitigation planning. This section provides a detailed analysis of the hazards most likely to impact the planning area. Each hazard is profiled using a consistent framework that explores the nature of the hazard, where and how it might occur, its historical significance, and its potential future impacts.

The analysis draws from historical data, scientific research, stakeholder input, and state and federal guidance to evaluate the extent, probability, and consequences of each hazard. In addition to considering known vulnerabilities, this section incorporates future-focused considerations such as population growth, development trends, and climate change. These factors help frame the hazards not only as they have been experienced in the past, but as they may evolve in the years to come.

Ultimately, the hazard analysis informs the county's mitigation strategy by highlighting areas of greatest concern and identifying those populations, assets, and systems most at risk. This structured assessment enables jurisdictions to prioritize actions that reduce risk, strengthen resilience, and support a safer, more sustainable future for the region.

2021 Mitigation Plan Success Story

Village of Hatch
Village of Hatch Drainage Master Plan

The completed Drainage Master Plan for the Village of Hatch stands as a testament to the power of collaboration between the community and local agencies. The planning committee successfully identified current and future runoff conditions, highlighted critical areas, and prioritized capital improvement projects. This strategic effort has greatly strengthened the Village's resilience to flooding and other natural hazards.



3.3.1 Dam Failure

3.3.1.1 Profile

A dam is defined as a barrier constructed across a watercourse for the purpose of storage, control, or diversion of water. Dams typically are constructed of earth, rock, concrete, or mine tailings. A dam impounds water in the upstream area, or reservoir, and the volume of storage is usually measured in acre-feet (the volume of water that covers an acre of land to a depth of 1 foot). Water can be impounded for a variety of purposes including irrigation, creating a water supply, flood control, and recreational use.

The primary risk associated with dam failure in Doña Ana County is the inundation of downstream facilities and population by the resulting flood wave. Dams within or impacting Doña Ana County can generally be divided into two groups.

- Storage reservoirs that are designed to impound and store water, provide flood protection, and possibly generate power, and
- Single purpose flood retarding structures (FRS) that are designed to attenuate or reduce flooding by impounding stormwater for relatively short durations of time during flood events.

Most dams are equipped with an emergency spillway, which provides a designed and protected outlet to convey water volume exceeding the dam's storage capacity during extreme storms and heavy or prolonged rainfall.

Dam failures may be caused by a variety of reasons including seismic events, extreme wave action, leakage and piping, overtopping, material fatigue and spillway erosion.

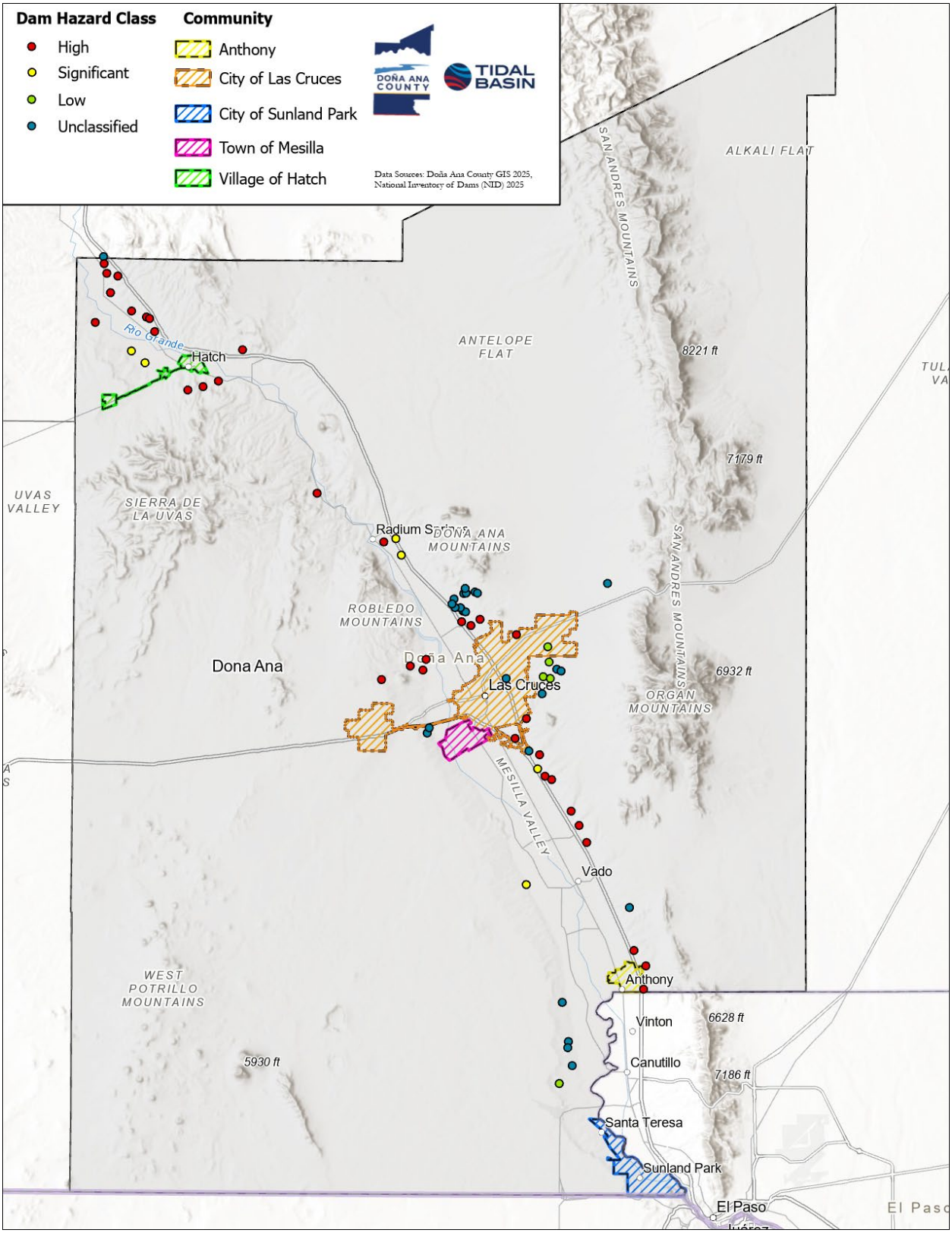
Federal dam owners are required to obtain a permit for a new dam; however, the Office of the State Engineer (OSE) by law does not regulate federal dams. Dams storing less than 15 acre-feet of water, dams less than 25 feet in height and storing less than 50 acre-feet of water, and dams less than six feet in height are generally not regulated and are considered non-jurisdictional dams. However, if a non-jurisdictional dam threatens life and property due to an unsafe condition, the state engineer can issue a safety order to the owner requiring action to remove the threat.

3.3.1.2 Location

According to the National Inventory of Dams (NID), there are 49 dams in the boundaries of Doña Ana County. Of these dams, 88% are regulated by the state and 12% are regulated federally, by the BLM and the Bureau of Reclamation (USBR). Figure 11 provides the location of each dam and its hazard classification.

The planning area remains potentially vulnerable to failure of significant and high hazard dams, particularly in areas downstream of identified structures.

Figure 11: Dam Locations and Hazard Classification



3.3.1.3 Extent

In the United States, dams are assigned a hazard potential classification based on the potential consequences of failure and the corresponding loss of life, damage to property and environmental damage that is likely to occur in the event of dam failure. No allowances for evacuation or other emergency actions by the population are considered and the hazard potential classification is not a reflection of the condition of the dam. Dam classifications are not assigned based on the condition or likelihood of failure of any given dam.

High hazard dams are required to develop Emergency Action Plans (EAPs), detailing response actions in the event of a failure. The plans include inundation studies, showing the extent of flooding downstream. However, NID notes that only six EAPs have been developed out of the 33 High Hazard dams within Doña Ana County, and these lack inundation mapping. Therefore, the extent of potential inundation from failure of these structures is unclear.

Similarly, FEMA's Estimated Base Flood Elevation (BFE) Viewer tool, which would highlight the extent and depth of flooding, does not have available data sets for Doña Ana County.

As a result, detailed dam breach inundation modeling and associated inundation depth mapping are not available for the significant and high hazard dams located within or affecting the planning area. As a result, precise flood depths, extent boundaries, and downstream impact areas associated with potential dam failure scenarios cannot yet be quantified. This represents a known **data deficiency** within the current planning cycle.

The best currently available information regarding the potential extent and magnitude of dam failure within the planning area includes hydraulic height and reservoir storage capacity (acre-feet) data obtained through the National Inventory of Dams (NID). Hydraulic height represents, in feet, the vertical distance between the maximum design water level and the lowest point in the original streambed. Reservoir storage capacity, measured in acre-feet, represents the volume of water impounded behind the dam and provides additional context regarding the potential scale of water release during a failure event. This is represented in Table 18.

Because low hazard dams are defined as structures where failure is not expected to result in probable loss of life and are anticipated to cause only minimal economic or environmental impacts, low hazard dams were excluded from the dam failure risk assessment for this plan.

During this planning cycle, Doña Ana County initiated preliminary research regarding the technical, operational, and financial resources necessary to support future development of EAPs and associated inundation studies, with priority placed on high hazard dams. Future planning efforts are anticipated to include coordination with dam owners, the New Mexico Office of the State Engineer Dam Safety Bureau, and other applicable partners to improve dam failure modeling, inundation mapping, warning capabilities, evacuation planning, and overall understanding of downstream consequences associated with potential dam failure events.

Hazard potential classifications are described in Table 17.

Table 17: Dam Hazard Potential classifications (Source: New Mexico OSE)

Hazard Rating	Description
Low	Dams assigned the low hazard potential classification are those dams where failure or improper operation results in no probable loss of life and low economic or environmental losses. Losses are principally limited to the dam owner's property.
Significant	Dams assigned the significant hazard potential classification are those dams where failure or improper operation results in no probable loss of human life but can cause economic loss, environmental damage, disruption of lifeline facilities, or can impact other concerns. Significant hazard potential classification dams are often located in predominantly rural or agricultural areas but could be located in populated areas with significant infrastructure.
High	Dams assigned the high hazard potential classification are those dams where failure or improper operation will probably cause loss of human life.

Table 18 lists dams within Doña Ana County, as well as their hazard classifications.

Table 18: Dams in Doña Ana County (Source: NID)

Dam Name	Nearest City	River or Stream Name	Hazard Classification	Storage Capacity (acre feet)	Hydraulic Height
Alameda Dam	Sonoma Ranch	Alameda Arroyo	**Low**	--	--
Anthony Arroyo Dam No. 1	Anthony	Anthony Arroyo	**High**	**1,012**	**35 ft.**
Apache Brazito Mesquite Dam No. 1	Mesquite	Apache Arroyo	**High**	**305**	**Not available**
Apache Brazito Mesquite Dam No. 2	Mesquite	Pena Blanca Arroyo	**High**	**2,400**	**54 ft.**
Apache Brazito Mesquite Dam No. 3	Mesquite	Mossman Arroyo	**High**	**925**	**44 ft.**
Apache Brazito Mesquite Dam No. 4	Mesquite	Bishops Cap Arroyo	**High**	**603**	**Not available**

Dam Name	Nearest City	River or Stream Name	Hazard Classification	Storage Capacity (acre feet)	Hydraulic Height
Apodaca Arroyo Dam	La Mesa	Apodaca Arroyo	Significant	193	33 ft.
Breedlove Flood Control Dam	Anthony	Breedlove Arroyo	High	140	Not available
Caballo Arroyo Dam No. 2	Garfield	Wasson Arroyo	High	161	22 ft.
Caballo Arroyo Dam No. 3	Salem	South Salem Arroyo	High	104	19 ft.
Caballo Arroyo Dam No. 4	Hatch	Wardy & Hedgecock Arroyos	Significant	351	21 ft.
Caballo Arroyo Dam No. 5	Hatch	Hammett Arroyo	Significant	272	28 ft.
Crow Broad Placitas Dam No. 1	Unincorporated Residents Along Rio Grande	Broad Canyon	High	6,910	Not available
Crow Broad Placitas Dam No. 2a	Unincorporated Residents	Crow Arroyo	High	14,600	Not available
Dominguez Dairy Pond Dam	Mesquite	Rio Grande - OS	High	106	Not available
Doña Ana Site 1	Doña Ana	Doña Ana Arroyo	High	660	37 ft.
Doña Ana Site 2	Doña Ana	North Doña Ana Arroyo	High	233	31 ft.
Fillmore Site 1 Dam	Unincorporated Residents	Fillmore Arroyo	High	1,395	40 ft.
Fillmore Site 2 Dam	Unincorporated Residents	Salopek Arroyo	Significant	71	18 ft.
Fillmore Site 3 Dam	Unincorporated Residents	Lower Fillmore Arroyo	High	180	Not available
Gardner Dam	Rural	Rio Grande - TR	Low	--	--

Dam Name	Nearest City	River or Stream Name	Hazard Classification	Storage Capacity (acre feet)	Hydraulic Height
Hatch Valley Arroyo Dam No. 1	Unincorporated Residents Southwest of Dam	Velarde Arroyo	**High**	**420**	**38 ft.**
Hatch Valley Arroyo Dam No. 2	Salem	North Salem Arroyo	**High**	**124**	**26 ft.**
Hatch Valley Arroyo Dam No. 6	Unincorporated Residents West of Dam	Garfield Arroyo	**High**	**326**	**46 ft.**
Hatch Valley Arroyos Dam No. 3	Unincorporated Businesses and Residents Downstream	Reed Thurmond Arroyo	**High**	**442**	**23 ft.**
Hatch Valley Arroyos Dam No. 4	Rincon	Ralph Arroyo	**High**	**318**	**27 ft.**
Hatch Valley Arroyos Dam No. 5	Rodey	Rodey Arroyo	**High**	**255**	**35 ft.**
Kight Flood Retard Dam	Unincorporated Residents Southwest of Dam	Church Arroyo	**High**	**232**	**28 ft.**
Las Cruces Dam	Las Cruces	Alameda & Las Cruces Arroyos	**High**	**13,200**	**Not available**
Las Uvas Detention Dam #1	Las Cruces	Coyote Canyon	**Low**	**--**	**--**
Las Uvas Detention Dam #5	Las Cruces	Coyote Canyon	**Low**	**--**	**--**
Las Uvas Detention Dam #6	Las Cruces	Coyote Canyon	**Low**	**--**	**--**
Lauson Arroyo Flood Detention Dam	Anthony	Lauson Arroyo	**High**	**329**	**Not available**
Leasburg Arroyo Dam	Radium Springs	Leasburg Arroyo	**Significant**	**97**	**7 ft.**

Dam Name	Nearest City	River or Stream Name	Hazard Classification	Storage Capacity (acre feet)	Hydraulic Height
Leasburg Diversion	Mesilla	Rio Grande River	**Low**	--	--
Lucero Detention Dike	Unincorporated Residents Downstream of Dam	Lucero Arroyo	**High**	**475**	**Not available**
Mcclernon Dam	Las Cruces	South Fork Arroyo	**Low**	--	--
Mclead Flood Control Dam	Hatch	Mcleod & Broadhurst Arroyo	**High**	**720**	**Not available**
Mesilla Diversion	La Mesa	Rio Grande River	**Low**	--	--
North Fork Dam	Las Cruces	North Fork Of Las Cruces Arroyo	**Low**	--	--
Picacho North Dam	Picacho	North Picacho Arroyo	**High**	**970**	**Not available**
Picacho South Dam	Picacho	South Picacho Arroyo	**High**	**560**	**Not available**
Porter Whisenhunt Dam	Radium Springs	Rio Grande - TR	**High**	**191**	**19 ft.**
Rhodes Arroyo Retarding Dam	Radium Springs	Rhodes Arroyo	**Significant**	**194**	**Not available**
Sand Hill Arroyo Dam	Las Cruces	Sandhill Arroyo	**High**	**424**	**Not available**
South Fork Dam	Las Cruces	South Fork Of Las Cruces Arroyo	**Low**	--	--
Spring Canyon Dam	Hatch	Spring Canyon	**High**	**830**	**54 ft.**
Tortugas Site 1 Dam	Mesilla Park, Las Cruces	Tortugas Arroyo	**High**	**1,980**	**50 ft.**
Tortugas Site 2 Dam	Las Cruces, Tortugas	Tortugas Arroyo	**High**	**121**	**22 ft.**

Table 19 shows the number of dams by each hazard classification – high, significant and low. According to the NID, 67% of the dams located in Doña Ana County are classified with a high hazard designation.

Table 19: Dams by hazard classification (Source: NID)

Dam Hazard Classification	Number of Dams in County
High Hazard	33
Significant Hazard	6
Low Hazard	10

Note on High Hazard Potential Dams (HHPD) Requirements
Doña Ana County is home to a large number of dams relative to its size and population, many of which have been classified as high hazard potential. While the County has prioritized dam safety and included dam failure as a profiled hazard in this plan, not all of FEMA's High Hazard Potential Dams (HHPD) planning requirements can be fully met at this time due to limited available data. To address this, OEM is undertaking a jurisdiction-wide effort to develop and maintain EAPs for all high hazard and significant potential dams, with prioritization on HHPDs. Once this project is complete, the County intends to update this HMP to include the additional information necessary to meet HHPD eligibility criteria for FEMA mitigation funding. This may include an addendum or plan amendment focused specifically on dam-related risk assessments and mitigation actions.

3.3.1.4 History

Major dam failures are relatively uncommon in both Doña Ana County and the U.S., though they are not unheard of. Historical events in Doña Ana County are listed in Table 20.

Table 20: Historical impacts of dam failure in Doña Ana County (Source: NWS)

Date	Description of Event
September 12, 2013	In the Colonia of La Union, NM, an uncommonly heavy rainfall event in the contributing watershed of the La Union Dam resulted in overtopping and failure of the decades old earthen structure. Subsequent downstream flooding necessitated evacuation of many residents, and resulted in several flooded homes, washed out roads and utility outages.

3.3.1.5 Probability

The probability of dam failures is difficult to quantify due to numerous factors that may cause a dam to fail. The magnitude of a dam failure is normally an estimate of discharge and can vary greatly with each dam. Factors impacting the probability and magnitude of dam failure are directly influenced by the type and age of the dam, its operational purpose, storage capacity and height, downstream conditions, hydrologic conditions as the time of failure, and many other factors. Based on previous history both in the county and nationally, dam failures are an exceedingly rare occurrence, however the risk is extremely high when they do fail.

According to data listed on the NID, 30 of the 33 high hazard dams in Doña Ana County were listed in poor condition upon their last inspection. While the overall risk of failure remains **unlikely**, it can be reasonably extrapolated that the risk of failure increases for specific dams when dam conditions are sub-satisfactory.

3.3.1.6 Climate Change Impacts

Climate change can significantly increase the risk and severity of dam and levee failures. Shifts in seasonal weather patterns and more intense precipitation events raise the likelihood of flooding, placing added stress on these structures and increasing the risk of overtopping. Extended droughts followed by sudden heavy rainfall can further destabilize dams by contributing to soil erosion, sediment buildup, and pressure imbalances. Rising average temperatures may also affect the integrity of dam materials, particularly concrete and earthen components, leading to cracks or other structural damage, especially during prolonged heatwaves. These climate-driven stressors are expected to accelerate the deterioration of aging dams, particularly those lacking regular maintenance or structural upgrades.

Additionally, increased demand on water resources has the potential for more frequent drawdowns of reservoirs and added stress on dam operations and structures.

3.3.1.7 Vulnerability and Consequence Assessment

The following vulnerability and consequence assessment evaluates the populations, infrastructure, and critical systems most likely to be affected by dam failure, helping to inform targeted mitigation strategies across the planning area.

3.3.1.7.1 People

All individuals who live, work, and recreate in areas downstream of the dams are at risk if they are unable to escape the inundation zone following a failure. Inadequate warning from public warning systems, local radio stations, and other means can increase the number of people at risk.

Rising water from dam failure can cause the same type of impacts as riverine and/or flash flooding, including injuries and fatalities from drowning, blunt force trauma, or exposure. If an inundation is expected, populations will likely need to be evacuated and may lose access temporarily or long-term to housing, workplace, and other facilities. Not only can this have immediate physical impacts on people, it can also have longer-term mental health impacts as people work through the process of having their lives drastically altered.

3.3.1.7.2 Property

Inundation from dam failure can cause minor damage up to total loss of structures, utilities, and roadways. In addition, inundation is likely to impact phone lines, potable water, cable, and electricity; wastewater and recovery time for these lifelines may be extended.

3.3.1.7.3 Environmental

The natural environment is also at risk for impacts caused by dam failure. River habitats, and nearby wetlands, meadows, and wooded areas may suffer from sedimentation and pollution caused by hazardous materials (e.g., pesticides, fuel, sewage). Floodwaters may cause significant erosion and can harm wildlife through drowning, disease, and disruption of habitat. A sudden release of water could erode stream banks, damage wetlands, and disrupt downstream ecosystems and wildlife.

3.3.1.7.4 Government Operations

A dam failure can have wide-reaching and severe impacts on government operations, depending on the dam location, level of failure and specific inundation area. Potential dam failure impacts include flooding damage to government facilities and infrastructure located in the inundation area.

Dam failure would also present a strain on government services, particularly police, fire, emergency medical and emergency management services that would be called in to respond to the incident.



Advancing HHPD Readiness: Coordination, Gaps, and Future Updates

As part of this plan update, the jurisdictions acknowledge the importance of coordinating with both local dam owners and the New Mexico OSE Dam Safety Bureau to better understand and mitigate risks associated with high hazard potential dams. At the time of this writing, many of the dams within the county do not have clearly documented ownership, and several data gaps remain regarding inspection status, condition ratings, and operational protocols.

These gaps are being actively addressed through a separate project focused on the development and implementation of the Dam EAP project. The EAP project is expected to provide greater clarity on ownership and operational responsibilities and facilitate more formal engagement with both public and private dam owners. Future updates to this plan will include the outcomes of that coordination, with the goal of enhancing risk assessments, mitigation strategies, and project eligibility under the HHPD program.

3.3.2 Drought

3.3.2.1 Profile

A drought is an extended episode of insufficient rainfall, leading to a significant scarcity of water resources. It can be understood conceptually as an overarching notion of water deficiency, or operationally through concrete, measurable indicators such as drop in precipitation, diminished soil moisture, and dwindling water supplies. Droughts manifest in various forms, each with distinct implications, including meteorological droughts, which focus on the lack of rainfall; hydrological droughts, marked by reduced water levels in rivers and reservoirs; agricultural droughts, which affect crop yields; socioeconomic droughts, which highlight the impact on community livelihoods; and ecological droughts, which threaten the health of ecosystems and biodiversity.

3.3.2.2 Location

Southern New Mexico has been grappling with a relentless battle against drought over the past decade. Drought has the potential to impact all of Doña Ana County and does not follow jurisdictional or geographic boundaries. Unlike localized hazards, drought conditions are typically regional in nature, affecting the county's municipalities, unincorporated areas, agricultural lands, and natural environments simultaneously. While impacts may vary based on land use, water availability, and infrastructure, the entire county is considered exposed to drought risk.

3.3.2.3 Extent

The extent and severity of drought are typically measured by the duration of the event and the hydrological deficits involved. There are various resources available to assess current drought conditions and project expected changes in the near future. The National Integrated Drought Information System (NIDIS) Act of 2006 (Public Law 109-430) outlines a collaborative approach for monitoring, forecasting, and preparing for drought, helping states and local communities manage the impacts of these events. NIDIS oversees the U.S. Drought Portal, which serves as a centralized online resource for several drought-related tools, including the U.S. Drought Monitor (USDM) and the U.S. Seasonal Drought Outlook (USSDO).

The USDM, which is updated weekly, provides a map that illustrates the current status of drought conditions and is managed by the National Drought Mitigation Center. Table 21 lists the drought categories alongside examples of historically observed impacts.

Table 21: Drought Categories (Source: National Drought Mitigation Center)

Category	Examples of historically observed impacts
D0	Short-term dryness slowing planting, growth of crops or pastures
D1	Some damage to crops, pastures
	Streams, reservoirs, or wells low, some water shortages developing or imminent
	Voluntary water-use restrictions requested
D2	Crop or pasture losses likely
	Water shortages common
	Water restrictions imposed
D3	Fire danger is extreme
	Irrigation Allotments decrease
	Livestock is suffering; producers are selling herds; feed costs are high; emergency CRP grazing is authorized; crop yields are low
	Vegetation and native trees are dying
D4	Bears encroach on developed areas; migratory birds change patterns
	Federal lands begin to close for fire precautions; burn bans increase
	No surface water is left for agriculture; farmers use private wells
	Rio Grande and other large rivers are dry

Future drought intensity is projected using several tools supported by the National Integrated Drought Information System (NIDIS) and NOAA's Climate Prediction Center. These tools include the Seasonal Drought Outlook, the Monthly Drought Outlook, and long-term climate models that incorporate temperature trends, precipitation anomalies, soil moisture indices, and evaporative demand. Together, these outlooks indicate that the planning area may cycle through the full USDM intensity spectrum (D0–D4) depending on seasonal conditions and long-range climatic shifts.

Current climate forecasts show that more frequent and higher-intensity drought episodes are likely, driven by rising temperatures, declining snowpack, and increased evaporative demand statewide. As a result, Doña Ana County may experience:

- **D0–D1** (Abnormally Dry to Moderate Drought) during shorter precipitation deficits,
- **D2–D3** (Severe to Extreme Drought) during prolonged warm seasons or multiyear deficits, and
- **D4** (Exceptional Drought) during periods of significant hydrologic stress, including prolonged low Rio Grande flows and depleted aquifer recharge.

3.3.2.4 History

Doña Ana County has faced severe drought conditions over the years, affecting various aspects of life and the environment, including:

- **Drought severity.** As depicted in Figure 12 between the fall of 2023 and the winter of 2024, 100% of Doña Ana County was classified under severe drought (D3) conditions.
- **Record dry periods.** February 2025 was the sixth driest February on record over the past 131 years, with a decrease of 0.43 inches from normal precipitation. Additionally, January-February 2025 was the 9th driest year-to-date period over the past 131 years.
- **Agriculture.** Drought has severely impacted agricultural activities. Table 22 lists the impacts of drought on agriculture within Doña Ana County.

Table 22: Drought impacts on agriculture in Doña Ana County (Source: New Mexico Drought Plan)

(D1-D4) Drought Impacts on Agriculture in Doña Ana County	
Hay	17,738 acres
Cotton	11,626 acres
Wheat	1,668 acres
Cattle	39,861
Sheep	1,085

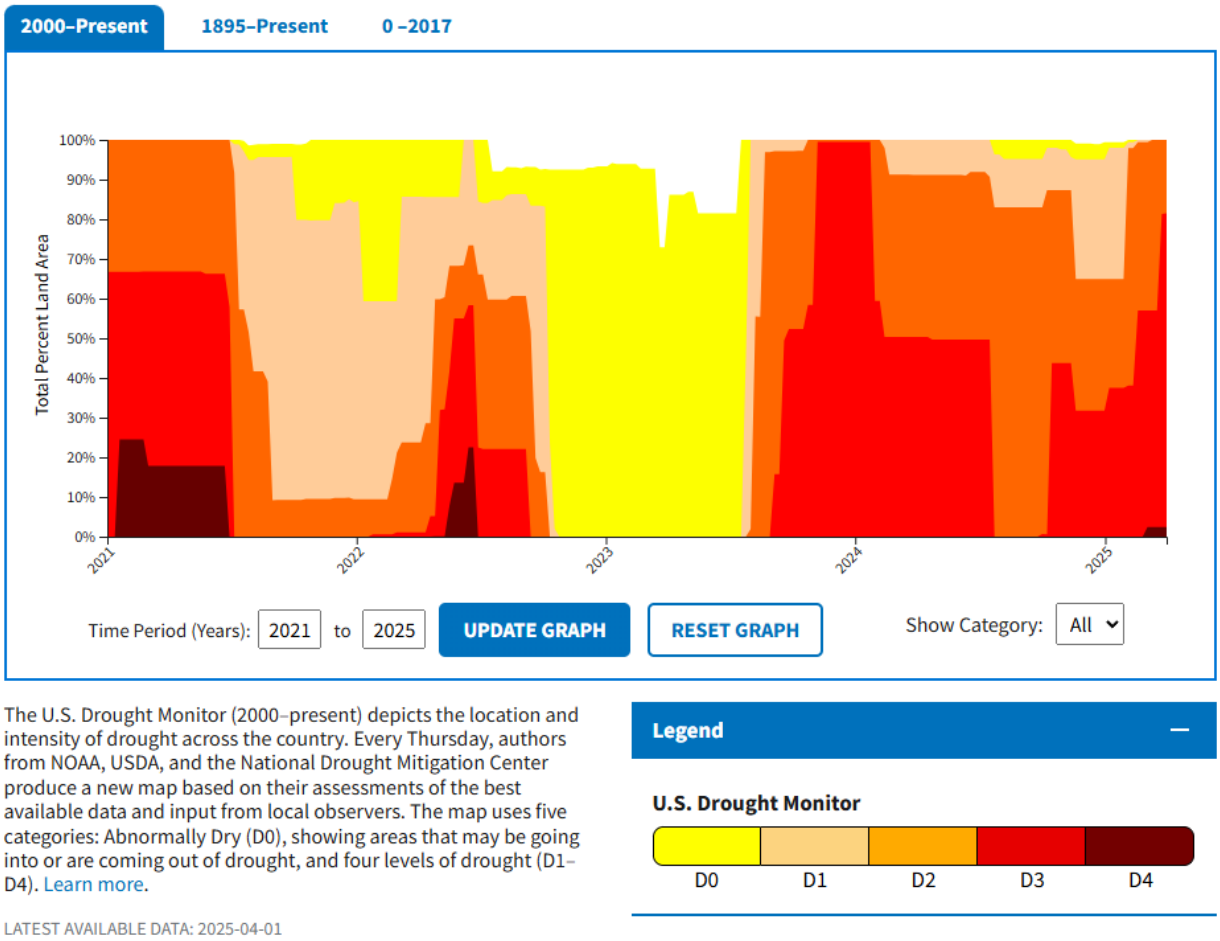
Table 23 lists examples of documented D3 or higher drought conditions that have occurred in the last five years:

Table 23: Historical impacts of drought in Doña Ana County (Source: U.S. Drought Monitor and NMSU Cooperative)

Date	Description of Event
May of 2021	The region was under Exceptional (D4) drought conditions with the New Mexico State University Cooperative Observer reporting just 0.02 inches of precipitation, which was 0.36 inches below normal.
June of 2022	The region was under Exceptional (D4) drought conditions
September of 2024	Extreme (D3) drought conditions persisted in the region with the New Mexico State University Cooperative Observer reporting just 0.06 inches of precipitation, which was 1.35 inches below normal
April of 2025	Drought intensity in most of Doña Ana County is estimated to be at D3 (extreme), with D2 (severe) conditions in the northeast corner and D4 (exceptional) in the southeast corner.

The USSDO is provided by the National Weather Service's (NWS) Climate Prediction Center. The USSDO indicates that drought conditions are expected to persist throughout the entire county, likely worsening the existing drought situation.

Figure 12: Doña Ana drought conditions 2021-2025 (source: U.S. Drought Monitor)



3.3.2.5 Probability

There is no commonly accepted return period or non-exceedance probability for defining the risk from drought (such as the 100-year or 1% annual chance of flood). There are, however, several sources for presenting indices of drought severity, that do use historic data and projected atmospheric conditions to estimate severity and potential future changes. Several of these are discussed in the following section. Additionally, the past occurrence of drought within the planning area can be used to predict the future probability of occurrence. In referencing the *New Mexico Drought Plan*, the probability of future drought across the State is determined to be 100%, which can be assumed for the Doña Ana County planning area as well, making the future probably of drought **highly likely**.

3.3.2.6 Climate Change Impacts

According to the *2024 New Mexico Climate Adaptation and Resilience Plan*, projections indicate a 25% decrease in surface water runoff and groundwater recharge in the next 50 years, affecting agriculture and ecosystems across the state.

Over the last decade, Doña Ana County, New Mexico, has experienced significant impacts from climate change, particularly in terms of drought conditions. The U.S. Geological Survey (USGS)

observes that the region has seen an increase in the frequency and severity of droughts, driven by rising temperatures and altered precipitation patterns. These changes have led to prolonged dry periods, which have strained water resources. The Rio Grande, a crucial water source for the county, has faced reduced flow due to decreased snowfall in the mountains and higher evaporation rates. This has resulted in lower water availability for both agricultural and municipal use, exacerbating the challenges faced by the local population.

Over the next decade, Doña Ana County is expected to face an increased probability of drought conditions due to climate change. The National Oceanic and Atmospheric Administration (NOAA) Projects that the region will experience higher temperatures and altered precipitation patterns, leading to more frequent and severe droughts. According to climate models, the likelihood of severe droughts is expected to increase significantly, with some models suggesting that severe three-month droughts could become five times more likely due to human-induced climate change. These projections are based on various climate scenarios, including those that assume continued high levels of greenhouse gas emissions.

3.3.2.7 Vulnerability and Consequence Assessment

The following vulnerability and consequence assessment evaluates the populations, infrastructure, and critical systems most likely to be affected by drought, helping to inform targeted mitigation strategies across the planning area.

3.3.2.7.1 People

Doña Ana County's entire population remains vulnerable to the effects of ongoing and future drought conditions. These impacts are expected to intensify, particularly in relation to water supply and public health. Persistent drought is contributing to declining groundwater levels, which threatens the long-term availability of potable water for residents. As drought conditions continue, water use restrictions may become more frequent or severe, disrupting daily life and placing additional strain on agricultural operations.

Public health risks are also expected to grow as drought and extreme heat become more common. Heat-related illnesses are likely to increase, particularly among vulnerable populations such as older adults, young children, and individuals without reliable access to cooling. The psychological toll of prolonged water scarcity and agricultural disruption is anticipated to worsen mental health challenges across the community, especially in areas already experiencing high levels of social and economic stress.

3.3.2.7.2 Property

Prolonged drought conditions continue to pose serious economic risks across Doña Ana County, with the agricultural sector remaining especially vulnerable. Property values in rural and farming areas are likely to decline further as concerns grow over long-term water availability and reduced land productivity. In parallel, the rising threat of drought-related losses may continue to drive up insurance premiums for property owners, adding to existing financial pressures.

Agricultural operations are expected to face increasing challenges. Crop yields for key staples such as hay, cotton, and wheat are projected to decline due to water scarcity and harsher growing conditions. Livestock producers must contend with limited forage and water supplies, leading to higher costs for feed and care. These stressors are likely to ripple through the local

economy, contributing to job losses and financial instability in communities dependent on agriculture.

Pecan orchards, a defining feature of the county's agricultural landscape and a vital part of its economy, are particularly at risk. Maintaining these water-intensive crops will require growing reliance on external water sources, intensifying pressure on already limited supplies and highlighting the broader vulnerability of the county's agricultural economy to ongoing and future drought.

3.3.2.7.3 Environmental

Prolonged and intensifying drought conditions pose serious environmental risks across Doña Ana County, with far-reaching consequences for ecosystems, land health, and agricultural sustainability. Water scarcity threatens the vitality of soil, vegetation, and natural habitats, accelerating land degradation and reducing the resilience of both managed and wild landscapes. Soil quality declines as moisture levels drop, and increased erosion from wind and lack of cover vegetation further destabilizes the land.

Agricultural lands, particularly those reliant on surface or shallow groundwater, face growing vulnerability as persistent drought reduces water availability for irrigation and stresses crop systems. This is especially evident in water-intensive crops like pecans, which require substantial and consistent water inputs to remain viable. As conditions worsen, these stressors not only diminish productivity but also contribute to long-term soil exhaustion and desertification, threatening the ecological integrity of key agricultural zones.

The decline of vegetation cover and shifts in species composition also reduce biodiversity and strain ecosystems that rely on seasonal moisture cycles. These environmental impacts, in turn, have cascading economic effects such as limiting the productivity of farmland, increasing the cost of sustaining crops and livestock, and reducing the viability of lands for future agricultural or conservation use.

3.3.2.7.4 Government Operations

Drought continues to place a growing financial burden on local governments and utilities in Doña Ana County, a trend that is expected to intensify in the future. Water supply systems and public facilities remain vulnerable to strain under prolonged dry conditions, requiring ongoing maintenance and investment to ensure reliable service delivery. Aging infrastructure is especially at risk, as reduced water availability and elevated temperatures increase the likelihood of wear, damage, and system failure.

Operational costs for water treatment, distribution, and infrastructure upkeep are projected to rise, demanding more intensive resource management and long-term planning. These escalating expenses challenge the fiscal capacity of local agencies, limiting their ability to maintain critical services and infrastructure in the face of compounding environmental stressors driven by climate change and persistent drought.

3.3.3 Extreme Temperatures

3.3.3.1 Profile

Extreme temperatures, either extreme cold or extreme heat, can have adverse impacts on the health and welfare of the community, including people, pets, plants, and infrastructure. Doña Ana County and its jurisdictions are at risk to extreme cold and extreme heat events. Due to its geographic location in southeast New Mexico, Doña Ana County has differing normal temperature ranges compared to the rest of the U.S. As it relates to the county, these are defined as:

- **Extreme cold.** Defined as where the temperature drops around or below 32°F for an extended period, posing risks to public health, agriculture, infrastructure, and the environment. For example, economic losses due to frozen crops, downed power lines, or burst pipelines can be significant.
- **Extreme heat.** Defined as where the temperature rises in excess of 95°F or higher for an extended period. In Doña Ana County, this may pose risks to public health, agriculture, infrastructure, and the environment.

3.3.3.2 Location

The entire geographical area of Doña Ana County is susceptible to extreme temperature events, including both extreme heat and extreme cold. While extreme heat is more common and widespread, the specific impacts of extreme cold events can vary depending on elevation, with higher terrain sometimes experiencing more intense cold snaps.

Although cold events are less frequent, they have affected all jurisdictions in the county with relatively uniform exposure, especially during significant regional cold fronts. Conversely, extreme heat conditions tend to have a more prolonged and cumulative effect, particularly in urbanized or low-lying areas where heat retention is greater. Elevation and urban development patterns influence the microclimate of each area, but no region within the county is immune from the threat of either heat waves or severe cold spells.

3.3.3.3 Extent

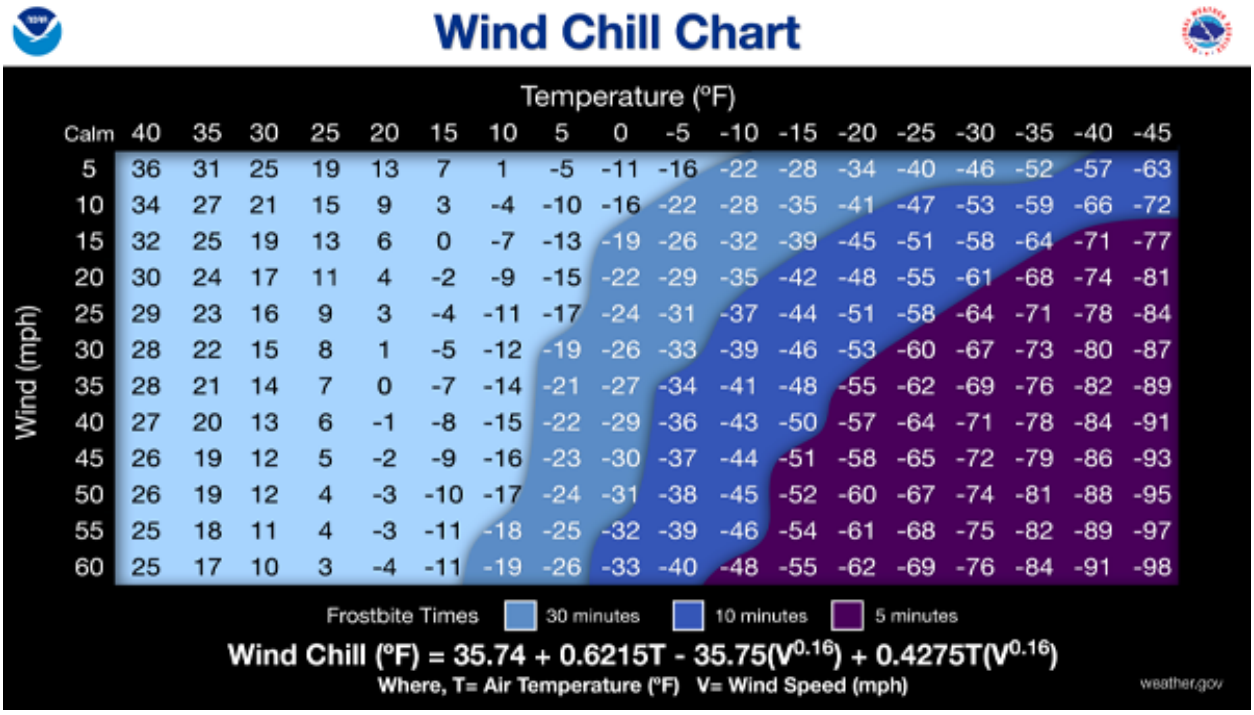
3.3.3.3.1 Extreme Cold

The extent of extreme cold refers to the severity and duration of dangerously low temperatures. The NWS issues three categories of cold weather notices:

- **Cold weather advisory**. Dangerously cold temperatures and/or wind chill readings are expected.
- **Extreme cold watch.** Threatening cold temperatures and/or wind chill readings are possible.
- **Extreme cold warning.** Life-threatening cold temperatures and/or wind chill readings are expected.

In Doña Ana County, extreme cold events are those around or below 10°F, with the county having some historical instances of below zero-degree temperatures. Extreme cold is sometimes paired with wind chill, or the rate of heat loss from exposed skin caused by wind and cold. As the wind speed increases, more heat is drawn from the body through skin temperature and internal body temperature. Figure 13 displays the NWS Wind Chill Chart that estimates the 'feels-like temperature' based on air temperature and wind speed.

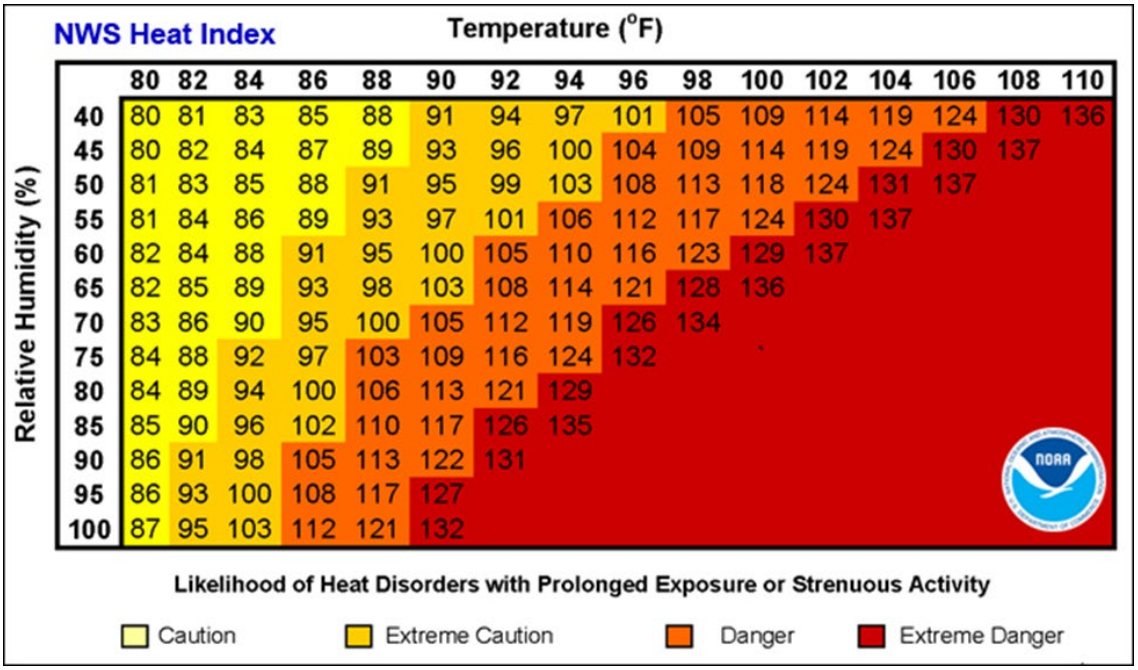
Figure 13: Wind Chill Chart (Source: NWS)



3.3.3.3.2 Extreme Heat

The extent of extreme heat is measured by the NWS Heat Index (**Error! Reference source not found.**), which measures the air temperature and relative humidity to create a 'feels like temperature', or how comfortable the human body is when exposed to high temperatures and humidity. In Doña Ana County, extreme heat is measured by the number of days with a heat index of over 95°F.

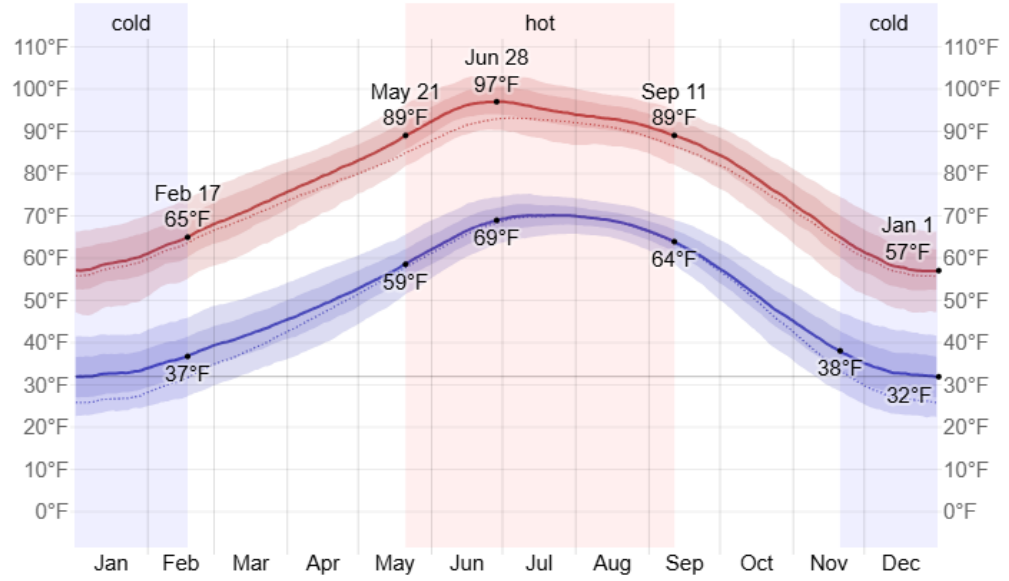
Figure 14: Heat Index (Source: NWS)



3.3.3.4 History

Figure 15 displays the annual average high and low temperatures in Doña Ana. On average, the County experiences extreme heat temperatures up to 97°F in the summer months and extreme cold temperatures as low as 32°F.

Figure 15: Average Temperatures in Doña Ana County (Source: © WeatherSpark.com)



Additionally, historical weather data from stations in Hatch, Santa Teresa, and at New Mexico State University (NMSU) illustrate that temperature extremes occur across the county, with summer highs regularly exceeding 100°F and winter lows occasionally dropping below zero.

3.3.3.4.1 Extreme Cold

The County infrequently experiences extreme cold events during December, January, and February. According to the NOAA Storm Events Database there have been no instances of extreme cold or winter-related weather in the County since 2016. However, there have been notable extreme cold events that have resulted in damaged infrastructure and school closures, as displayed in Table 24.

Table 24: Historical impacts of extreme cold in Doña Ana County (Source: Various Sources)

Date	Description
February 2-4, 2011	Record breaking cold temperatures and snow in Doña Ana County. Residents saw temperatures as low as -15°F. Several pipes froze or broke, natural gas pressure was reduced, and schools were closed for four days. Subsequently, a high demand for electricity resulted in rolling power outages. It is estimated that over $560,000 in damages due to broken water pipes occurred throughout the County.
January 2024	As blizzard conditions were impacting northeast NM, Doña Ana County experienced temperatures in the single digits for two days and subfreezing temperatures for four days, with wind chills between -15°F and -30°F.
January 9-10, 2025	County and jurisdictional offices closed non-emergency functions due to cold temperatures and icy roads.

3.3.3.4.2 Extreme Heat

Doña Ana County frequently experiences extreme heat events, however there are notable extreme heat events that have impacted the region, as displayed in Table 25.

Table 25: Historical impacts of extreme heat in Doña Ana County (Source: NOAA)

Date	Description
July 2023	July 2023 was the hottest month on record for Southern New Mexico, with temperatures exceeding 100°F 28 out of the 31 days in July. The County's average temperature was 88.2°F.
March 2017	Albuquerque and Las Cruces, both with over 120 years of record, observed their warmest March. Temperatures at Albuquerque were 6.7° F above normal and 6.6° F above normal in Las Cruces.

According to the *SHMP*, Doña Ana County recorded six heat-related deaths between 2017 and 2021, one of the highest rates of heat-related fatalities in the state.

3.3.3.5 Probability

3.3.3.5.1 Extreme Cold

Climate projections for New Mexico indicate a reduction in extreme cold events over the next 30 years, therefore the probability of future extreme cold events is **unlikely**.

3.3.3.5.2 Extreme Heat

According to the First Street Foundation's 12th National Risk Assessment, 98% of current and future average high temperatures and humidity levels are expected to rise significantly over the next 30 years. The probability of experiencing a heatwave lasting three days or more has increased by 48% over the past three decades. Looking ahead, the County faces an 84% probability of experiencing at least 25 days each year with temperatures exceeding 100°F by mid-century. These projections indicate that extreme heat events are **highly likely** and expected to become more frequent, prolonged, and severe in the years to come.

3.3.3.6 Climate Change Impacts

According to the *2024 New Mexico Climate Adaptation and Resilience Plan*, projections point to a reduction in extreme cold events and an increase in extreme heat events.

3.3.3.6.1 Extreme Cold

Climate projections for New Mexico indicate there will be a decrease in cold temperatures that support snowpack, and therefore a reduction in surface and groundwater needed for drinking water. This trend is also indicative of more rain events than snowstorms in the winter months. The cascading impacts of fewer winter events will affect the agricultural sector in Doña Ana County with the reduction in available potable water sources.

3.3.3.6.2 Extreme Heat

The State of New Mexico, and specifically Doña Ana County, are projected to experience a significant rise in extreme heat events. Specifically, the County is projected to more than triple the number of days over 100°F over the next 30 years. This trend is concerning for the County, as it will lead to more heat-related illnesses and deaths. The *2024 New Mexico Climate Adaptation and Resilience Plan* emphasizes that vulnerable populations like the elderly, young children, people with chronic health conditions, and those who work outdoors face increased risk of heat-related illnesses. This increase in extreme heat events will also enhance the probability of other hazards, such as drought and wildfires.

3.3.3.7 Vulnerability and Consequence Assessment

The following vulnerability and consequence assessment evaluates the populations, infrastructure, and critical systems most likely to be affected by extreme temperatures, helping to inform targeted mitigation strategies across the planning area.

3.3.3.7.1 People

All individuals who live, work, or spend time outdoors in Doña Ana County are at risk during extreme temperature events, particularly those without access to climate-controlled environments, reliable transportation, or strong social support networks. Certain populations are especially vulnerable, including older adults, young children, individuals with chronic health conditions, outdoor workers, and low-income households. People living in substandard housing or without adequate heating and cooling systems face heightened risk of illness or death during periods of extreme heat or cold.

Lack of timely warnings or public awareness can further increase exposure, especially for those who may not have the means to respond effectively. Extreme heat has contributed to multiple fatalities in the county and continues to pose a recurring seasonal threat. While extreme cold events are less common, they can be equally dangerous when they do occur, putting unhoused individuals and others without adequate shelter at high risk for hypothermia and frostbite. Even with relatively low frequency, cold snaps can carry severe health and economic consequences for the community.

3.3.3.7.2 Property

Extreme cold has the potential to damage both residential and commercial properties. Prolonged freezing temperatures can cause pipelines to burst, power lines to fail, and roadways to become hazardous due to ice accumulation. These conditions often lead to increased repair costs, service disruptions, and operational challenges for utilities, public agencies, and private businesses.

While extreme heat is less likely to directly damage structures, it places considerable strain on energy systems, increasing the risk of brownouts and power outages. Sustained high temperatures can drive up cooling costs for homes, businesses, and critical facilities. In urbanized areas, the heat island effect can further intensify stress on roadways, pavement, and other infrastructure, contributing to long-term maintenance and replacement needs.

3.3.3.7.3 Environmental

Both extreme heat and cold temperatures pose risks to the environment. Extended heat can lead to drought conditions, damaging vegetation, accelerating desertification, and increasing wildfire risk. It can also harm wildlife, degrade habitat quality, and diminish water quality in the Rio Grande and other ecosystems.

Extreme cold events can lead to freezing of surface waters and soil, impacting agriculture and natural flora. While infrequent, these events can still lead to crop loss, harm to livestock, and stress to native species unaccustomed to prolonged cold.

3.3.3.7.4 Government Operations

County and municipal operations in Doña Ana County are vulnerable to disruption from both extreme heat and extreme cold. Cold temperatures can lead to power outages, water system failures, and hazardous road conditions that impede government services, including emergency response and public transportation.

Extreme heat can strain energy infrastructure due to elevated demand for cooling, increasing the risk of service interruptions. Public safety, healthcare, and social services may also face heightened demand, particularly as vulnerable populations experience increased health risks. To reduce these operational impacts, local governments must plan for continuity of services through strategies such as establishing cooling centers, securing backup power for critical facilities, and implementing temperature-specific emergency response protocols.

3.3.4 Flooding

3.3.4.1 Profile

Flooding is an overflowing of water onto land that is normally dry. Floods typically result from heavy precipitation or accumulated runoff, or when dams or levees break. In Doña Ana County, two seasonal atmospheric events tend to trigger floods:

- **Tropical storm remnants.** Some of the worst flooding tends to occur when the remnants of a hurricane that has been downgraded to a tropical storm or tropical depression enter the State. These events occur infrequently and mostly in early autumn and usually bring heavy and intense precipitation over large regions causing severe flooding.
- **Summer monsoons.** In mid to late summer the monsoon winds bring humid subtropical air into the State. Solar heating triggers afternoon and evening thunderstorms that can produce extremely intense, short duration bursts of rainfall. The thunderstorm rains are mostly translated into runoff and in some instances, the accumulation of runoff occurs very quickly resulting in a rapidly moving flood wave referred to as a flash flood. Flash floods tend to be very localized and cause significant flooding of local watercourses.

Most of the storms that produce large amounts of runoff occur in the months of June through September. Fall, winter and spring are the dry seasons because much of the moisture in eastward circulation from the Pacific Ocean is removed as the air is passed over the mountains west of New Mexico. In the summer, moisture-laden air from the Gulf of Mexico enters southern New Mexico. Strong surface heating and upslope flow of the air cause brief and often heavy showers. Damaging floods in the county include riverine, sheet, alluvial fan, and local area flooding. Riverine flooding occurs along established watercourses when the bankfull capacity of a watercourse is exceeded by storm runoff or snowmelt and the overbank areas become inundated. Sheet flooding occurs in regionally low areas with little topographic relief that generates floodplains over a mile wide. Alluvial fan flooding is generally located on piedmont areas near the base of the local mountains and are characterized by multiple, highly unstable flowpaths that can rapidly change during flooding events. Local area flooding is often the result of poorly designed or planned development wherein natural flowpaths are altered, blocked or obliterated, and localized ponding and conveyance problems result. Erosion is also often associated with damage due to flooding.

Damaging floods may happen with only a few inches of water, or it may cover a house to the rooftop. Floods can occur within minutes or over a long period and may last days, weeks, or

longer. Floods are the most common and widespread of all weather-related natural disasters and the most common weather-related disaster for the county.

Flash floods are the most dangerous kind of flood because they combine the destructive power of a flood with incredible speed. Flash floods occur when heavy rainfall exceeds the ability of the ground to absorb it. They also occur when water fills normally dry creeks or streams or enough water accumulates for streams to overtop their banks, causing rapid rises of water in a short amount of time. They can happen within minutes of causative rainfall, limiting the time available to warn and protect the public.

Flooding occurs in every U.S. state and territory and is a threat experienced anywhere in the world that receives rain. In the U.S., floods kill more people each year than tornadoes, hurricanes, or lightning. Areas at risk from flash floods include densely populated areas, areas near rivers, and areas near dams. Very intense rainfall can produce flooding even on dry soil; recent burn areas in mountains are at high risk; and ice jams and snowmelt can help cause flash floods.

Information on each jurisdiction's participation in the NFIP including local floodplain management capacity and the presence of repetitive loss properties, is provided in the Floodplain Management and NFIP Participation subsection of the Community Capabilities section (Section 2.9).

3.3.4.2 Location

In the Chaparral area, the flooding is generally very shallow due to the lack of well-defined flood paths. Flooding on streams on the West Mesa (west of the City of Las Cruces) is characterized by high-velocity flows heavily charged with sediment and debris; it generally results from brief, intense thunderstorms. Flood hazards are further aggravated as these high-velocity sediment flows enter the Rio Grande Valley. Upon reaching the escarpment these flows spread out to form alluvial fans or cones of sediment at the base of the escarpment deposited by floods. The areas with alluvial fans are characterized by high- velocity flows, large amounts of sediment deposition, and unpredictable flow paths that may change during the same flood event.

Another major flood hazard comes as a secondary impact of wildfires in the form of dramatically increased runoff from ordinary rainfall events that occur on newly burned watersheds. Denuding of the vegetative canopy and forest floor vegetation, and development of hydrophobic soils are the primary factors that contribute to the increased runoff. Canopy and floor level brushes and grasses intercept and store significant volumes of rainfall during a storm event. They also add to the overall watershed roughness which generally attenuates the ultimate peak discharges. Soil in a wildfire burn area can be rendered hydrophobic, which according to the Natural Resource Conservation Service (NRCS) is the development of a thin layer of nearly impervious soil at or below the mineral soil surface that is the result of a waxy substance derived from plant material burned during a hot fire. The waxy substance penetrates the soil as a gas and solidifies after it cools, forming a waxy coating around soil particles. Hydrophobic soils, in combination with a denuded watershed, will significantly increase the runoff potential, turning a routine annual rainfall event into a raging flood with drastically increased potential for soil erosion and mud and debris flows.

3.3.4.3 Extent

The 100-year floodplain and 500-year floodplain refer to areas that have different statistical probabilities of flooding in any given year:

- **100-Year floodplain.** This is an area with a 1% chance of flooding in any given year. It's also known as the 1% chance flood. Importantly, this doesn't mean a flood will occur only once every 100 years - it could happen more than once in a short time or not at all for many years.
- **500-Year floodplain.** This area has a 0.2% chance of flooding in any given year. It is less likely to flood than the 100-year floodplain but is still considered at some risk, especially as extreme weather becomes more common.

The 100-year floodplain (1 percent annual) has a higher flood risk than the 500-year floodplain (0.2 percent annual), and the 500-year floodplain covers a larger area than the 100-year floodplain. Floodplains are mapped providing a geospatial understanding of potential flood areas for a given waterway.

While these floodplains identify where flooding is likely to occur, they do not provide modeled flood depths for participating jurisdictions within the county. The U.S. Geological Survey's Estimated Base Flood Elevation (BFE) Viewer, which does have flood depth analysis, does not include any data coverage for Doña Ana County, and no other federal or state agency currently provides countywide modeled flood-depth datasets for future events.

To correct this data deficiency, the planning team will check coverage quarterly and again during plan maintenance for FEMA Region 6's BLE rollout and related BFE Viewer updates; when coverage becomes available, the team will implement jurisdiction-specific flood depth mapping into the plan.

Based on input provided by the Doña Ana County Flood Commission, typical moving floodwaters within mapped flood hazard areas in portions of the planning area are generally estimated to range from approximately one to three feet in depth during flood events, depending on location, storm intensity, channel capacity, and localized drainage conditions. These estimates are generally reflective of shallow overland flow and flood conveyance conditions identified through local floodplain management experience. During more significant flooding events, flood depths within portions of mapped flood hazard areas would reasonably be expected to approach or exceed the upper end of this range, particularly in low-lying areas, arroyos, and locations with constrained drainage capacity.

However, localized ponding and standing water depths may exceed these values in areas where drainage is obstructed, where water is impounded by roadways or other barriers, or where stormwater accumulates in low-lying areas. Actual flood depths can vary significantly based on the nature of the event, antecedent conditions, and site-specific topography.

Figure 16 through Figure 22 show the flood hazard profile for sub jurisdictions within Doña Ana County, while Figure 23 through Figure 26 provide flood hazard profiles for quadrants of the county, including unincorporated areas. Table 26 provides analysis of community exposure to flooding.

Figure 16: City of Anthony flood hazard profile map

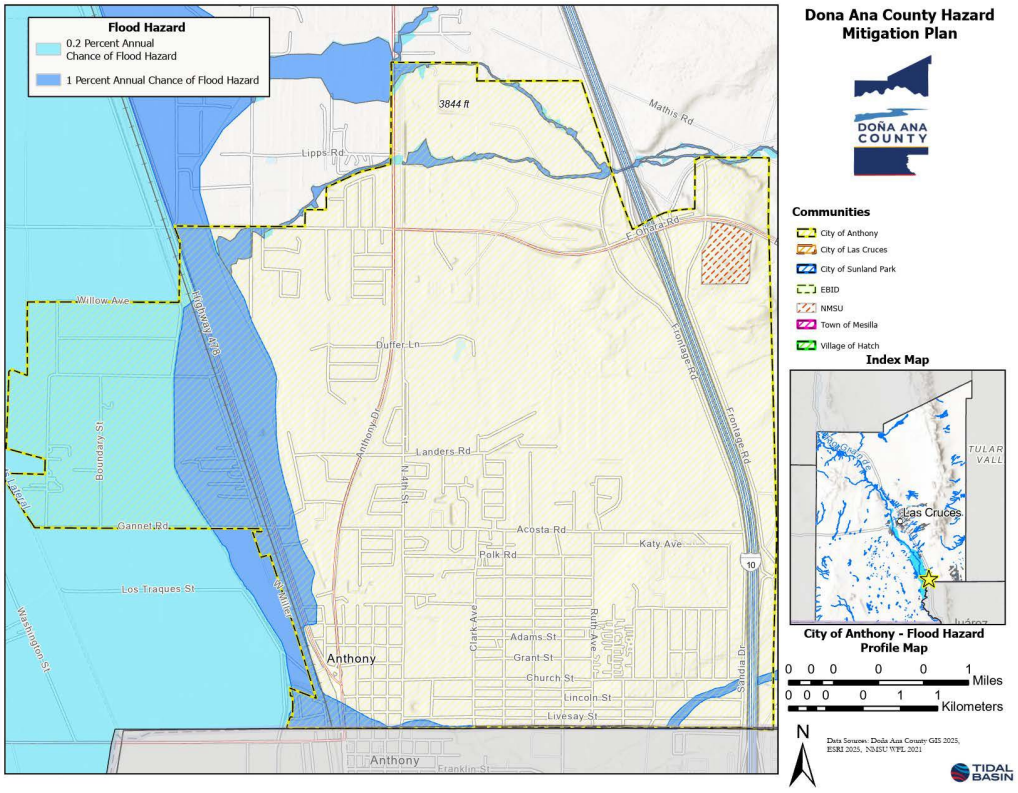


Figure 17: City of Las Cruces flood hazard profile map (first section)

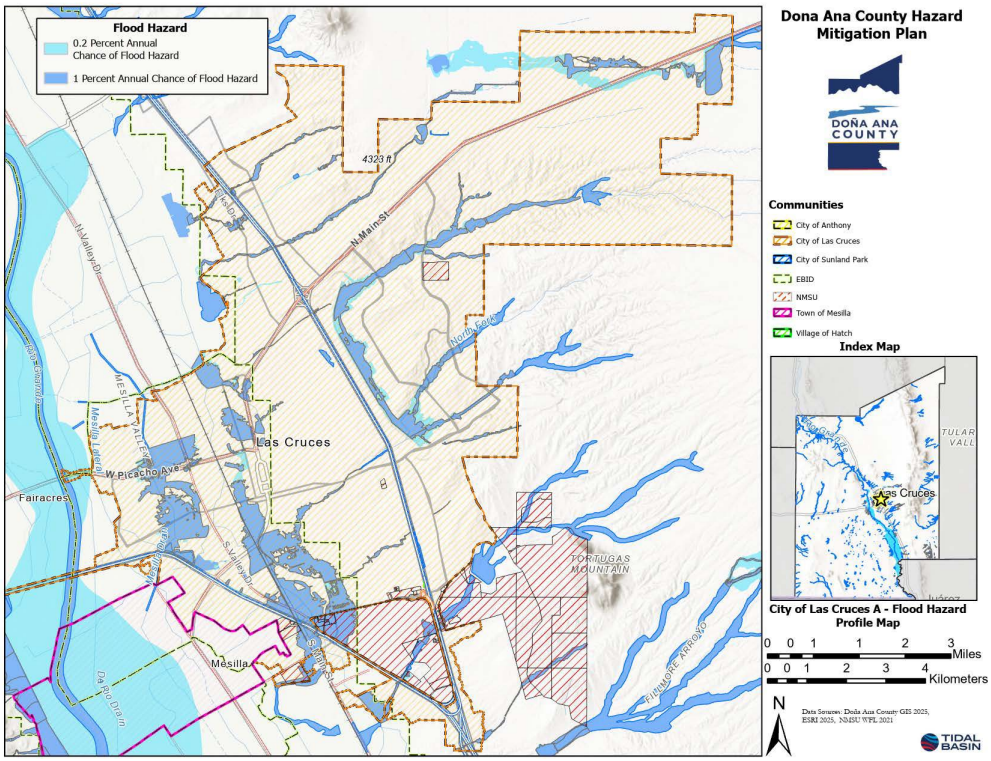


Figure 18: City of Las Cruces flood hazard profile map (second section)

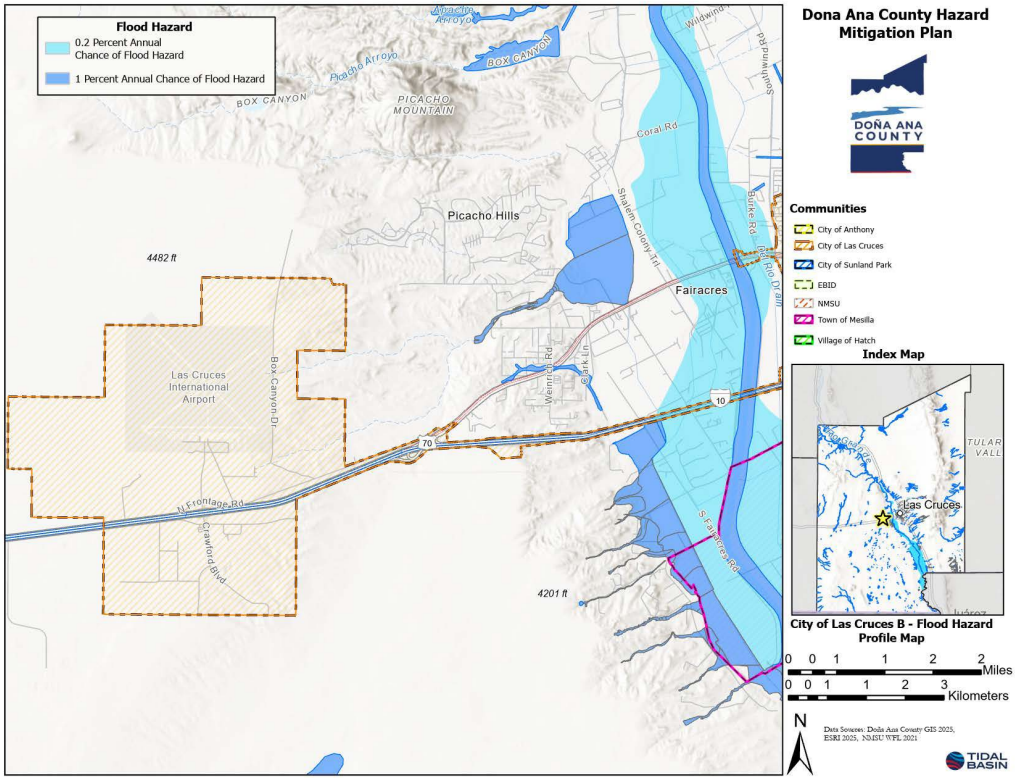


Figure 19: City of Sunland Park flood hazard profile map

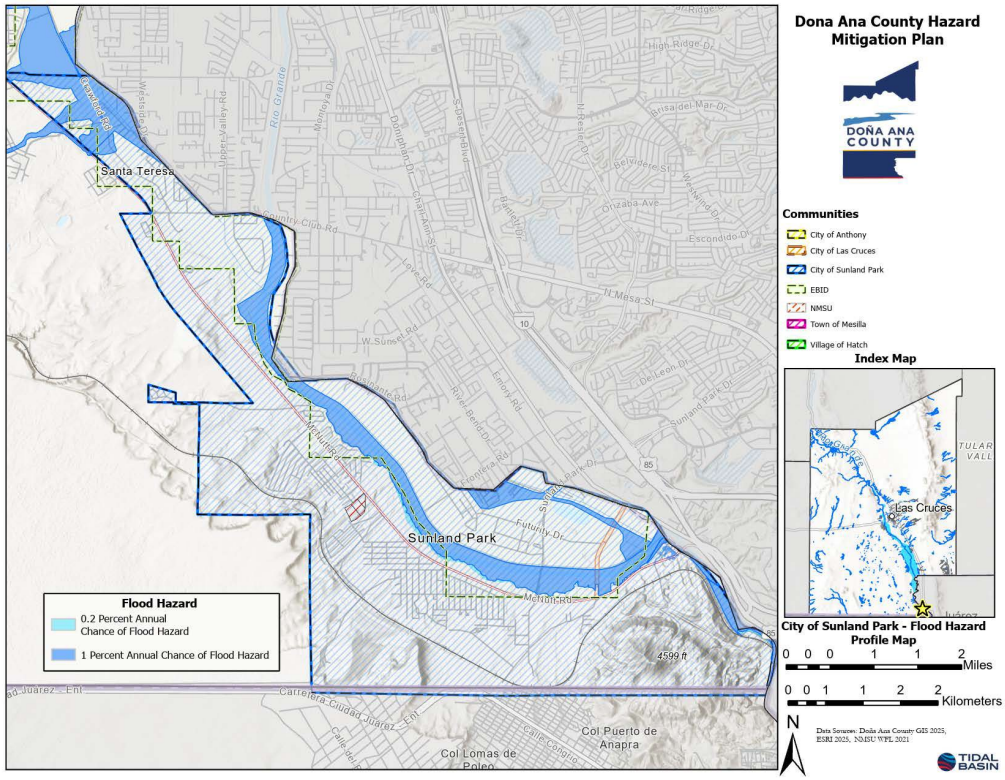


Figure 20: NMSU flood hazard profile map

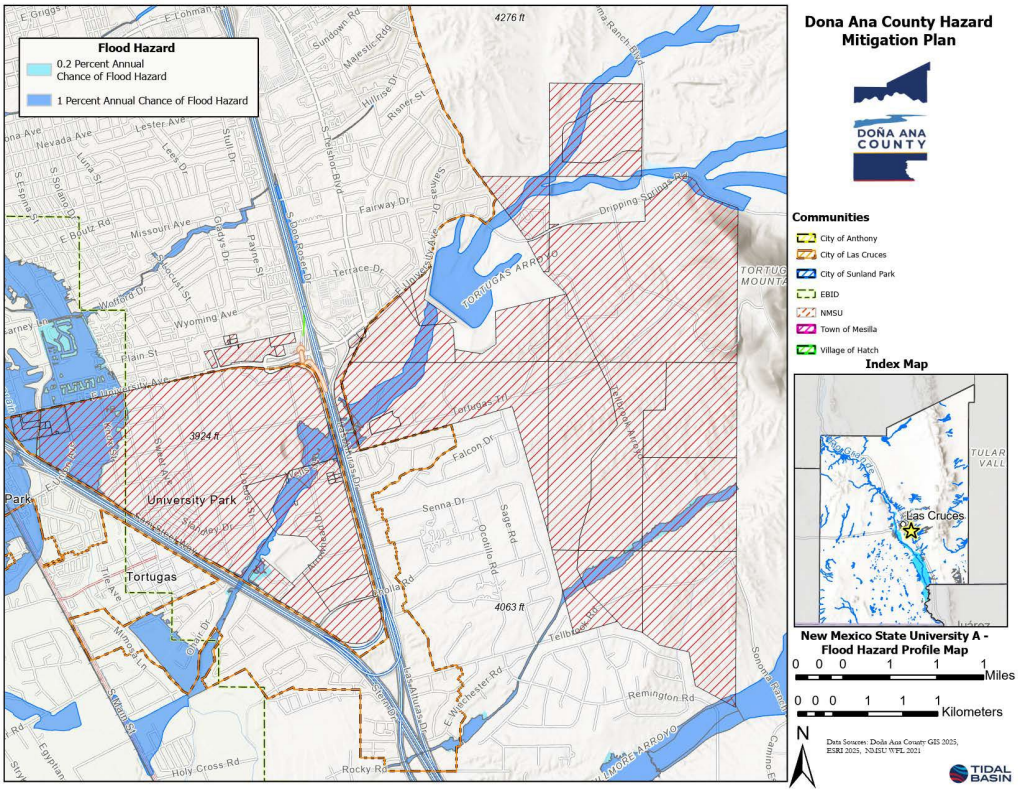


Figure 21: Town of Mesilla flood hazard profile map

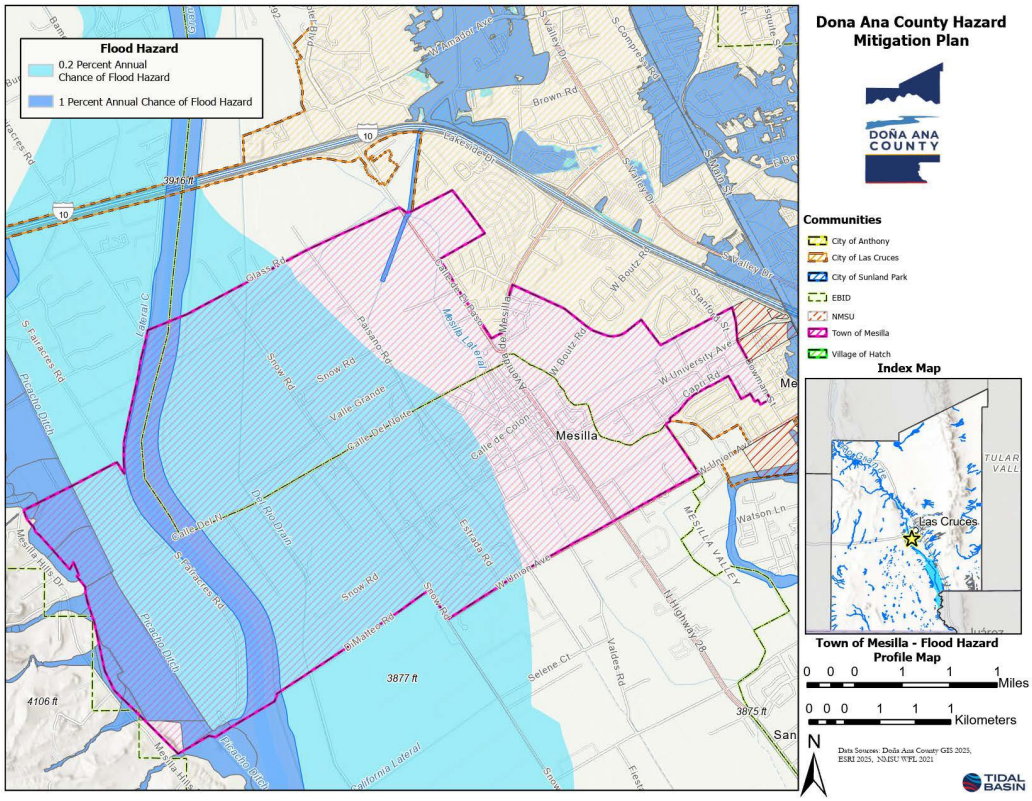


Figure 22: Village of Hatch flood hazard profile map

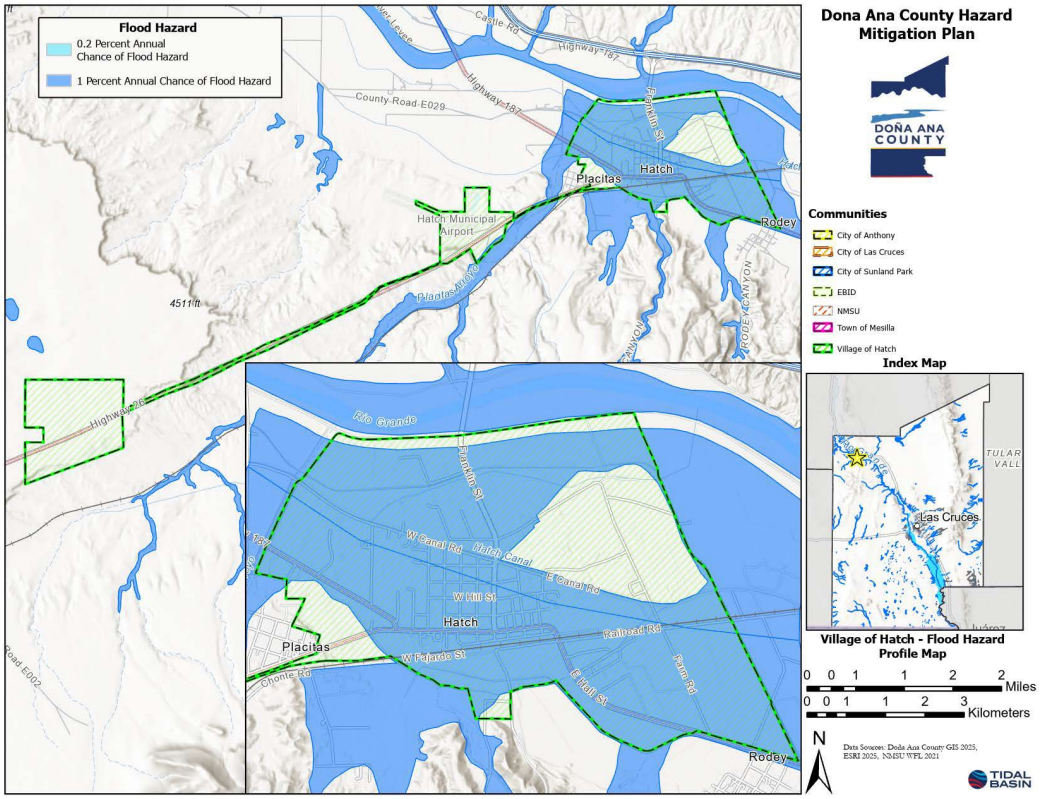


Figure 23: Doña Ana County flood hazard profile map (NW quadrant)

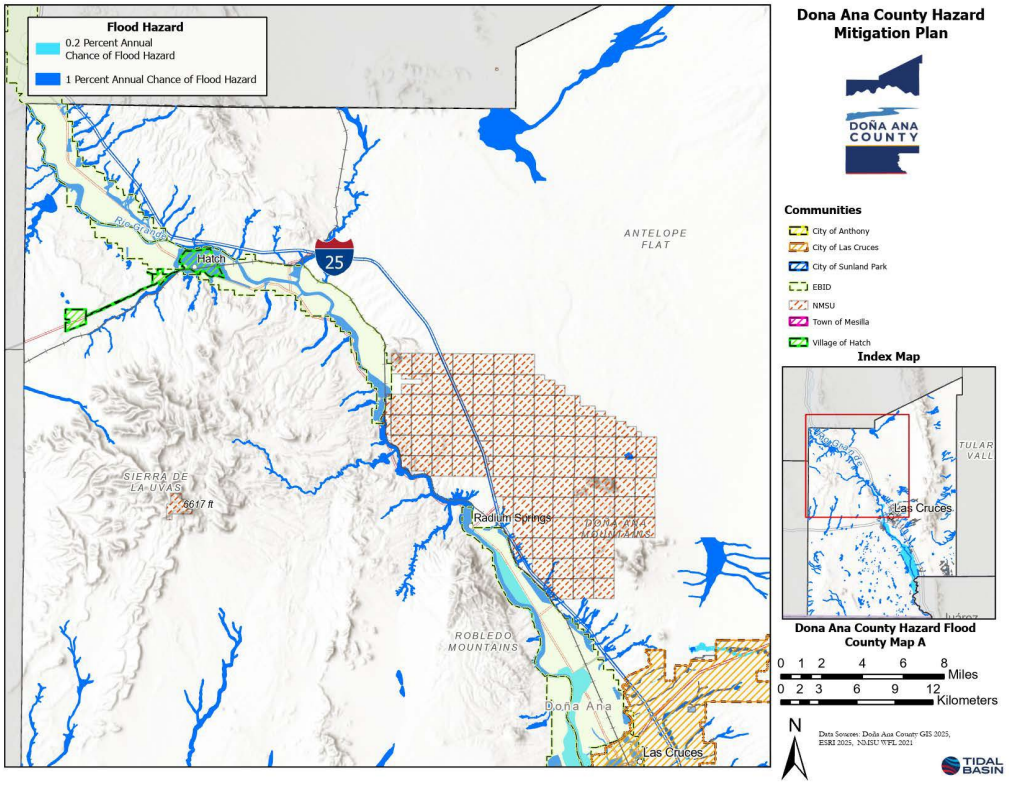


Figure 24: Doña Ana County flood hazard profile map (NE quadrant)

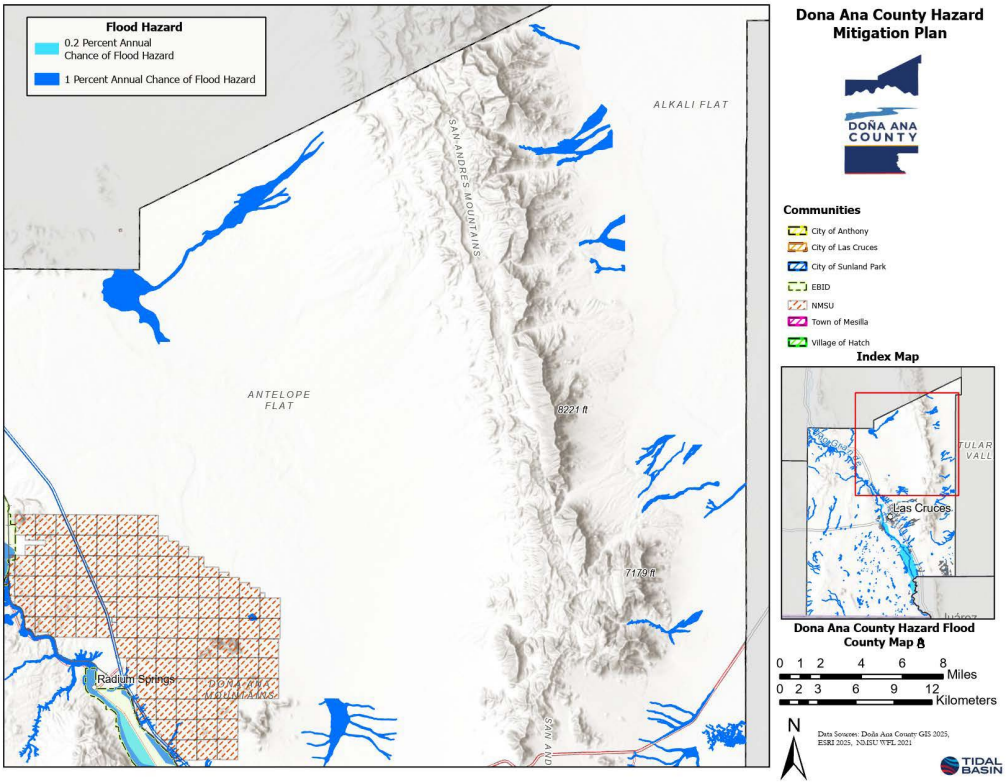


Figure 25: Doña Ana County flood hazard profile map (SW quadrant)

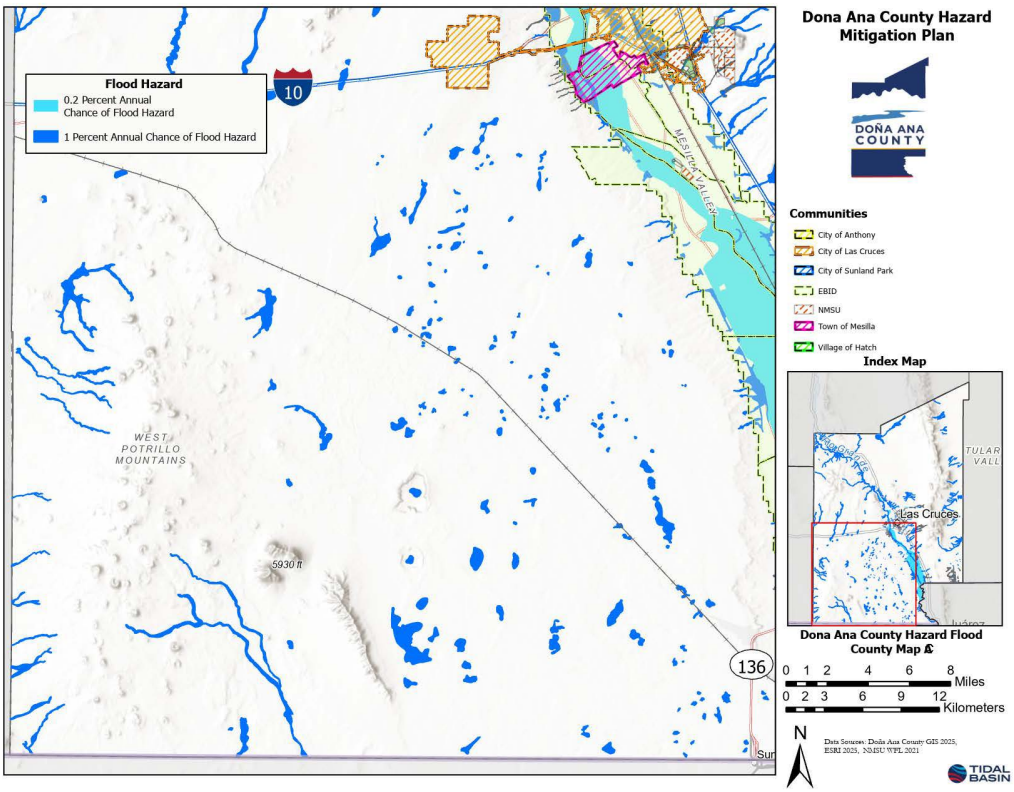


Figure 26: Doña Ana County flood hazard profile map (SE quadrant)

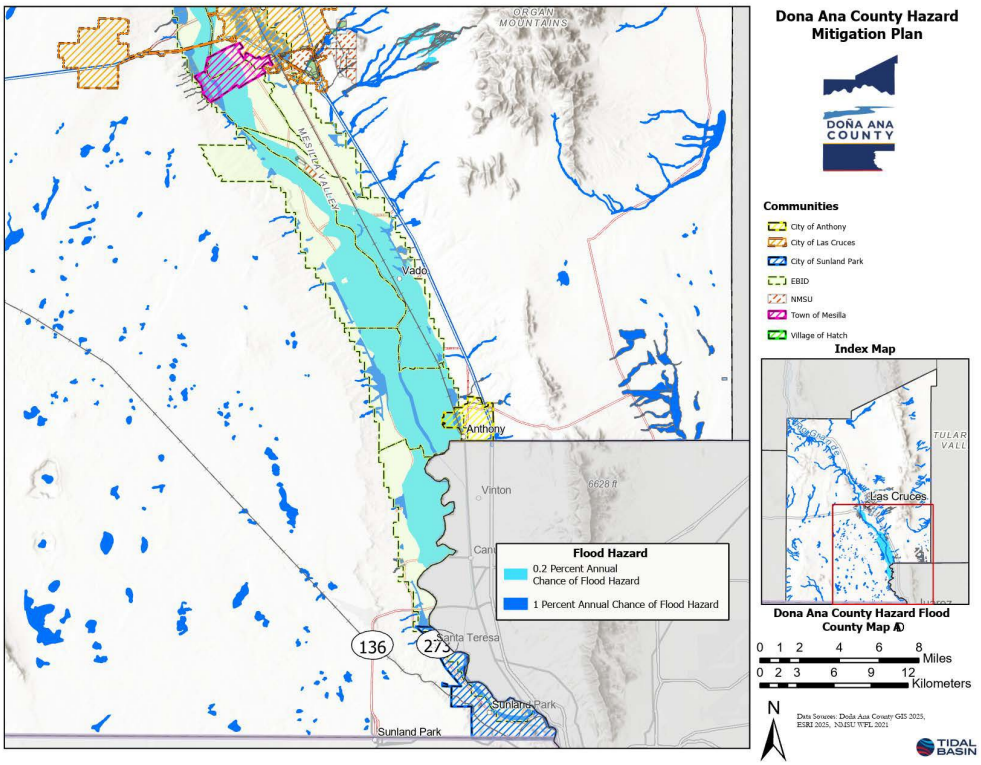


Table 26: Flood exposure analysis

Flood Exposure Analysis	City of Anthony	City of Las Cruces	City of Sunland Park	NMSU	Town of Mesilla	Village of Hatch	Unincorporated Doña Ana County
Total Critical Facilities	**10**	**103**	**8**	**16**	**6**	**7**	**47**
Facilities at High Hazard Risk	1	13	0	3	1	6	7
Percentage Exposed to High Hazard Risk	10.00%	12.62%	0.00%	18.75%	16.67%	85.71%	14.89%
Facilities at Medium Hazard Risk	0	0	0	0	0	0	0
Percentage Exposed to Medium Hazard Risk	0.00%	0.02%	0.00%	0.06%	0.17%	0.00%	0.06%
Total Population	**8,701**	**114,891**	**17,085**	**6,371**	**1,850**	**1,663**	**74,649**
Total Population at High Hazard Risk	398	10,741	1,145	78	35	1,542	5,510
% of Total Population at High Hazard Risk	4.57%	9.35%	6.70%	1.22%	1.89%	92.72%	7.38%
Total Population at Medium Hazard Risk	199	1046	147	41	556	0	5363
% of Total Population at Medium Hazard Risk	2.29%	0.91%	0.86%	0.64%	30.05%	0.00%	7.18%
Population Aged 65+	**1479**	**19531**	**2050**	**81**	**537**	**249**	**13437**
Population Aged 65+ at High Hazard Risk	78	1,649	158	15	10	235	642
% of Population Aged 65+ at High Hazard Risk	5.27%	8.44%	7.71%	18.43%	1.86%	94.21%	4.78%
Population Aged 65+ at Medium Hazard Risk	31	187	9	3	161	0	112
% of Population Aged 65+ at Medium Hazard Risk	2.10%	0.96%	0.44%	3.69%	30.01%	0.00%	0.83%
Residential Building Count	**3,100**	**52,623**	**6,250**	**1,542**	**896**	**531**	**29,002**
Residences at High Hazard Risk	169	4566	612	34	20	516	2683
% of Residences at High Hazard Risk	5.45%	8.68%	9.79%	2.20%	2.23%	97.18%	9.25%
Residences at Medium Hazard Risk	64	1,047	42	4	262	0	2,513
% of Residences at Medium Hazard Risk	2.06%	1.99%	0.67%	0.26%	29.24%	0.00%	8.66%

3.3.4.4 History

The NOAA National Centers for Environmental Information (NCEI) Storm Events Database was searched for historical flooding records in the county. Records were available as far back as 1996, showing 83 events, resulting in 1 injury, almost $10.9 million in property damage, and $745,000 in crop damage. Almost half the incidents listed resulted in either property damage or crop damage, with an average of $311,000 in property damage reported per incident. Notable incidents are provided in Table 27.

Table 27: Historical impacts of flooding in Doña Ana County (Source: NCEI)

Date	Description of Event
July 22, 2025	Severe monsoonal thunderstorms produced more than 2 inches of rain in a short period, triggering significant flash flooding in the Vado and Del Cerro areas of Doña Ana County. Floodwaters inundated neighborhoods, damaged approximately 110 homes, caused widespread road closures, and left several hundred residences without power. At least 20 water rescues were conducted, and two individuals were transported to the hospital with minor injuries. Standing floodwaters remained in parts of the community for days due to overwhelmed drainage infrastructure, clogged canals, and sediment buildup. The Doña Ana County Board of Commissioners issued a disaster declaration and requested state assistance to support response and recovery operations.
August 12, 2021	The first of several flash flooding events occurred in La Union, NM as several inches of rain occurred in a brief period. Water topped an earthen dam and resulted in flooding across much of La Union. Several cars were washed off the road and some houses were inaccessible. Several inches of standing water also resulted across the area due to the heavy rain. This was all the result of almost 2 inches of rain in about an hour. NCEI recorded $750,000 in property damages associated with this event.
August 15, 2006	A flash flood event occurred in Hatch resulting in $4 million in property damage and $500,000 in crop damage; runoff from heavy rains over the nearby Sierra De Las Uvas Mountains caused the Placitas Arroyo to breach, which sent a wall of water into the town of Hatch. Up to 4 feet of water entered business and residences. Mandatory evacuations of several hundred residents took place, including 150 people from an apartment complex which eventually had to be condemned. All roads into and within Hatch were closed.
September 6, 2005	Major flooding occurred across most of the Las Cruces area as a thunderstorm complex dropped heavy rain during a 3-hour time frame. Rainfall reports were widespread 2 to 3 inches with isolated amounts around 4 inches. All major roads were flooded with a few intersections under 4 feet of water. Sandbags were put up until resources were exhausted. The rainfall amounts were not extremely unusual, just the areal coverage. NCEI recorded $1M in property damages associated with this event.

Table 28 summarizes total flood and flash flood incidents recorded by the NCEI between January 1, 1996, and December 31, 2024. Note that property and crop damage information for the July 2025 flood has not been added to NCEI yet, and is therefore excluded from this table.

Table 28: Flood and Flash Flood Incidents, 1996 – 2024 (Source: NCEI)

Type	Number of Incidents	Total Number of Injuries	Total Number of Fatalities	Total Property Damage	Total Crop Damage
Flood	7	0	0	$100,000	$0
Flash Flood	76	1	0	$10,753,000	$745,000
Total	84	1	0	$10,853,000	$745,000

3.3.4.5 Probability

Probability of a flood event can be calculated through a simple formula comparing a set number of years to the number of events that occurred in that timeframe. NCEI data includes data from January 1, 1996, through December 31, 2024, or a period of 28 years. During this timeframe, Doña Ana saw 84 flooding events, though in some cases multiple recorded events occurred on the same day. This means that Doña Ana County saw an average of 3 flash flooding or flooding events per year, thus it is **highly likely** Doña Ana County will see some level of flooding event in any given year.

3.3.4.6 Climate Change Impacts

Climate change is intensifying flooding and flash flooding risks across New Mexico, driven by rising temperatures, altered precipitation patterns, and increased wildfire activity. Warmer air holds more moisture, leading to heavier rainfall events. In October 2023, the nearby community of Roswell experienced nearly half of its annual rainfall in just six hours, resulting in severe flooding and two fatalities. Meteorologists attribute such extreme events to climate change, with the University of Arizona *Climate Assessment for the Southwest* noting that the southwest has seen a 17% increase in extreme precipitation between 1958 and 2008.

3.3.4.7 Vulnerability and Consequence Assessment

The following vulnerability and consequence assessment evaluates the populations, infrastructure, and critical systems most likely to be affected by flooding, helping to inform targeted mitigation strategies across the planning area.

3.3.4.7.1 People

Flooding can have severe and wide-ranging impacts on a population, affecting both immediate safety and long-term well-being. In the short term, floods can lead to loss of life, injuries, and displacement as homes, businesses, and infrastructure are damaged or destroyed. Access to clean water, electricity, and emergency services may be disrupted, increasing the risk of waterborne diseases and limiting healthcare access. In the long term, floods can devastate local economies, displace communities for extended periods, and lead to mental health challenges

due to trauma and instability. Vulnerable populations such as the elderly, low-income families, and those with limited mobility are often disproportionately affected, highlighting the need for effective disaster planning and resilient infrastructure. Additionally, there is a high risk of contamination post-flooding from sewage overflows, chemicals, and debris carried by floodwaters. These pollutants can seep into drinking water supplies, spread bacteria and viruses, and pose serious health risks to both people and animals.

The most common cause of flash flood fatalities in New Mexico is driving into flooded roads, underscoring the importance of public awareness and preparedness.

Flooding in Doña Ana County, New Mexico, poses significant risks to its residents, particularly in low-lying and arid regions where infrastructure is often inadequate to handle intense rainfall.

3.3.4.7.2 Property

Flooding can cause extensive damage to an area's property and infrastructure, leading to costly and long-lasting consequences. Homes, businesses, and public buildings may be inundated, resulting in structural damage, mold growth, and the loss of personal belongings or commercial inventory. Roads and bridges can become impassable or collapse due to erosion and water pressure, disrupting transportation and emergency response. Utilities such as power lines, water treatment plants, and sewage systems may be damaged or shut down, compromising essential services. In rural or agricultural areas, floods can destroy crops, contaminate soil, and damage irrigation systems. Repair and recovery efforts can take months or even years, placing significant financial strain on both private property owners and local governments.

3.3.4.7.3 Environmental

Flood events in Doña Ana County can lead to significant environmental impacts, affecting both natural ecosystems and human infrastructure. Floods can cause soil erosion, degrade water quality, damage irrigation systems and disrupt natural habitats, leading to a potential loss of biodiversity and degradation of habitats essential for various species.

3.3.4.7.4 Government Operations

Flood events can significantly disrupt government operations at all levels. Emergency response services may become overwhelmed or delayed due to flooded roads, damaged communication systems, or resource shortages. Government services may be adversely impacted. Recovery efforts require rapid mobilization of funds, personnel, and coordination across multiple agencies, diverting resources from other planned initiatives. Additionally, governments often face increased demand for public assistance, shelter services, infrastructure repair, and environmental cleanup, all of which can strain budgets and operational capacity for months or even years.

3.3.5 Severe Wind (Including Dust Storms)

3.3.5.1 Profile

Doña Ana County is particularly susceptible to severe wind events due to its arid climate, sparse vegetation, and expansive open landscapes, all of which contribute to the frequency and intensity of high wind occurrences. Severe winds are defined as sustained wind speeds exceeding 58 mph or greater. These winds typically originate from the southeast during summer, from the west in winter, and from the west-southwest in spring.

A significant hazard associated with severe wind in the region is the occurrence of dust storms, also known as haboobs. These events are especially common during the spring and early summer months when strong winds lift loose, dry soil and sand into the air, drastically reducing visibility and creating hazardous conditions for transportation, public health, and infrastructure. Dust storms can develop rapidly and may persist for several hours, posing risks such as respiratory issues, traffic accidents, and damage to mechanical systems and buildings.

Types of Severe Winds

- **Straight-line winds.** These are winds that move in a straight path, as opposed to rotating winds like tornadoes. They are often associated with thunderstorms and can cause widespread damage.
- **Downbursts.** These are powerful downdrafts that spread out rapidly once they hit the ground. They can be further classified into:
  - **Microbursts:** Small-scale downbursts with a diameter of less than 2.5 miles, lasting only a few minutes but with wind speeds that can exceed 100 mph.
  - **Macrobursts:** Larger downbursts with a diameter greater than 2.5 miles, capable of causing extensive damage over a wider area.
- **Gust fronts.** The leading edge of cool air rushing down and out from a thunderstorm. Gust fronts can create sudden wind shifts and temperature drops.
- **Derechos.** Long-lived windstorms associated with bands of rapidly moving showers or thunderstorms. They can produce widespread wind damage over areas extending more than 240 miles.

3.3.5.2 Location

The entire geographical area of Doña Ana County can be impacted by severe winds. While dust storms are prevalent across the county, these locations are particularly susceptible:

Las Cruces: This city often experiences hazardous dust plumes and reduced visibility during dust storms.

Interstate 10: West of Las Cruces. This area is frequently impacted, with road closures and warnings issued during high wind events.

Highway 70: This highway is another location within Doña Ana County that is susceptible to dust storms, affecting travel conditions.

3.3.5.3 Extent

The extent and severity of severe wind events in Doña Ana County are typically measured by wind speed (both sustained and gust), duration, and the resulting physical damage. The National Weather Service (NWS) uses standardized wind speed thresholds to issue advisories and warnings, providing a framework for monitoring and alerting the public to hazardous wind conditions. Wind speeds are recorded in miles per hour (mph) using anemometers, with gusts often exceeding sustained speeds during high wind events. Table 29 outlines the wind speed ranges associated with various NWS alert levels, which help define the potential impact to life and property.

Table 29: Severe wind alert levels (Source: NWS)

Alert Type	Criteria
Wind advisory	Sustained winds of 25–39 mph and/or wind gusts of 40–57 mph
High wind watch	Potential for sustained winds of 40+ mph and/or gusts of 58+ mph (issued 12–48 hours out)
High wind warning	Expected sustained winds of 40+ mph and/or gusts of 58+ mph

Wind speeds exceeding warning thresholds can result in widespread damage to structures, power lines, vegetation, and transportation infrastructure. The presence of loose debris, poor visibility from blowing dust, and wind-driven projectiles can further amplify the hazards associated with these events.

Severe wind events in Doña Ana County frequently exceed advisory levels during the late winter and spring months, and gusts above 70 mph have been recorded across several parts of the region. These measurements provide a clear basis for assessing potential severity and shaping preparedness efforts.

To monitor and manage the air quality impacts of dust storms, the New Mexico Environment Department's (NMED) Air Quality Bureau (AQB) operates a network of State and Local Air Monitoring Stations. This network includes six PM10 and three PM2.5 monitoring sites across Doña Ana and Luna counties, which track windblown dust and particulate matter concentrations. Fine particles less than 2.5 micrometers in diameter (PM2.5) are of particular concern due to their ability to penetrate deep into the respiratory system and cause adverse health effects.

In 2024, Doña Ana County recorded the second highest number of days exceeding PM2.5 standards in the state (after Taos), and the second highest for PM10 (after Luna County). Air pollution levels are communicated to government agencies and the public through the Air Quality Index (AQI), a standardized scale developed by the U.S. Environmental Protection Agency (EPA). The AQI translates complex air quality data into a single value ranging from 0 to 500, making it easier to understand the potential health implications of current conditions. The index is divided into six categories, each corresponding to a different level of health concern, as displayed in Table 30.

Table 30: Air Quality Index (Source: EPA)

Category	Description
Good (0–50)	Air quality is satisfactory, and air pollution poses little or no risk.
Moderate (51–100)	Air quality is acceptable; however, some pollutants may pose a moderate health concern for a very small number of individuals who are unusually sensitive.
Unhealthy for Sensitive Groups (101–150)	Members of sensitive groups may experience health effects, but the general public is unlikely to be affected.
Unhealthy (151–200)	Everyone may begin to experience health effects; sensitive groups may experience more serious effects.
Very Unhealthy (201–300)	Health alert; everyone may experience more serious health effects.
Hazardous (301–500)	Health warnings of emergency conditions; the entire population is more likely to be affected.

In 2024, Doña Ana County's median AQI was 58 with a breakdown of the number of days reported for each category noted in Table 31.

Table 31: Doña Ana Annual AQI Statistics for 2024 (Source: U.S. EPA)

Good	Moderate	Unhealthy for Sensitive Groups	Unhealthy	Very Unhealthy	Hazardous
62	104	8	2	2	4

3.3.5.4 History

According to the NCEI, between January 2021 and December 2024, there were 78 severe wind related weather events. Table 32 lists recent, documented severe wind events in Doña Ana County.

Table 32: Historical impacts of severe wind in Doña Ana County (Source: NCEI)

Date	Description of Event
June of 2024	A dryline pushed to the Rio Grande Valley at the same time an upper trough was moving into the Great Basin. Ample instability and shear allowed for severe thunderstorms to develop across northern Doña Ana County. The San Augustin Pass Mesonet station reported gusts ranging from 64-94 mph.

Date	Description of Event
June of 2024	Two outflows from nearby thunderstorms collided over the Chaparral area which created a gustnado as well as straight-line wind damage. There was a complete collapse of a well-built outbuilding/garage. The roof separated from the walls allowing the wind to get inside and under the roof structure. The roof debris scattered towards the west and northwest and was displaced approximately 50 yards from the foundation. The walls collapsed afterwards with all the walls falling in a southward direction. Metal fencing attached to a rock wall was ripped off. An RV camper rolled on its side and was damaged by flying debris. There was a metal shed that collapsed as winds lifted the roof from the structure. Finally, an outdoor shed was destroyed with debris scattered up to 100 yards towards the northwest. Damages were estimated at $250,000.
May of 2023	A weak surface trough extended up along the Rio Grande Valley with very dry air in place at low levels. The event produced a peak gust of 61 mph in a dry microburst north of Radium Springs.
February of 2022	A strong surface low moved into the Las Cruces region with southwest winds gusting up to 87 mph as the system moved through. Damage across the city included tree damage, a roof peeled off a church and numerous power outages. Damages were estimated at $50,000.
July of 2021	A weak back door front pushed in from the east as a strong upper low moved into the Upper Midwest. Good shear and instability across southern New Mexico allowed numerous storms to become severe with wind gusts over 80 mph, hail up to golf ball size along with 1.65 inches of rain within 15 minutes.

Table 33 lists examples of documented severe wind events causing a dust storm and their impacts.

Table 33: Historical impacts of dust storms in Doña Ana County (Source: Multiple news sources)

Date	Description of Event
March 3, 2025	A haboob swept across Deming and Doña Ana counties in New Mexico at a breakneck pace with near-zero visibility and winds of 45 mph, the National Weather Service warned. State officials closed parts of Interstate 10 because of the dangerous travel conditions. The NWS also issued a dust storm warning for parts of I-10 and I-25 and US Highway 70.
2011	A series of spring and early summer dust storms in 2011, driven by dry conditions and high winds, impacted Doña Ana County. The New Mexico State Climatologist noted multiple days in April and May when PM_{10} concentrations spiked above air-quality standards due to dust.

Date	Description of Event
July 11, 2002	A thunderstorm outflow produced a haboob that advanced into southern New Mexico. Observers in Doña Ana County noted a wall of dust tens of miles wide, with visibility dropping below 0.25 mile for 15–20 minutes before the storm's rain-cooled air arrived.
June – July ,1954	During the drought of the early 1950s, several severe dust storms occurred in June and July 1954. Local newspapers reported plumes of dust blown in from upwind agricultural fields, leading to "dust drifts up to two feet high" along county roadways.
April 14, 1935	Known as the "Black Sunday" dust storm, and part of the larger Dust Bowl phenomenon, a massive dust storm swept across eastern New Mexico into Doña Ana County, reducing visibility to near zero and depositing thick dust layers in Las Cruces and surrounding areas.

3.3.5.5 Probability

Severe wind events are **highly likely** in Doña Ana County, particularly during the late winter and spring months from January through April. These events are driven by both large-scale and localized weather systems and are a routine part of the regional climate. According to the *SHMP*, gusts exceeding 70 mph are common, and the NWS regularly issues wind advisories and high wind warnings for the area.

The county experiences between six and 18 dust storms each year, and it has been facing severe drought conditions. These drought conditions tend to worsen the factors that contribute to dust storm formation. Therefore, it is **highly likely** that the county will continue to be affected annually by dust storms in the foreseeable future.

3.3.5.6 Climate Change Impacts

Over the last decade, climate change has significantly influenced severe wind events in Doña Ana County. Data from the EPA) and NOAA indicate that temperatures in New Mexico have risen more than 2°F since the beginning of the 20th century, with the last decade being the warmest on record. This increase in temperature contributes to more intense and frequent thunderstorms, which are a primary source of severe winds. The warmer atmosphere holds more moisture, leading to stronger storm systems capable of producing powerful straight-line winds, downbursts, and gust fronts.

According to the New Mexico State Climate Summary, climate change has altered regional weather patterns, including the jet stream and other atmospheric circulation patterns, which can lead to more frequent and intense wind events. In arid regions like Doña Ana County, higher temperatures and altered precipitation patterns exacerbate the occurrence of dust storms. These storms are driven by strong winds that lift large amounts of dust and sand into the air, creating hazardous conditions. Over the last decade, the frequency and intensity of these events have increased, directly linked to the broader impacts of climate change.

3.3.5.7 Vulnerability and Consequence Assessment

The following vulnerability and consequence assessment evaluates the populations, infrastructure, and critical systems most likely to be affected by severe wind and dust storms, helping to inform targeted mitigation strategies across the planning area.

3.3.5.7.1 People

Severe wind events and dust storms in Doña Ana County pose significant risks to public health and life safety. High winds frequently generate large amounts of airborne dust and particulate matter, which can exacerbate respiratory conditions such as asthma, bronchitis, and other lung diseases. These health impacts are especially pronounced among vulnerable populations, including infants, young children, older adults, and individuals with pre-existing health conditions or limited access to medical care. Even short-term exposure to fine particulate matter (PM2.5) during dust storms can lead to increased medical visits and hospitalizations.

In addition to health concerns, severe winds and blowing dust create hazardous travel conditions by drastically reducing visibility on roadways. The presence of airborne debris and dust increases the likelihood of traffic accidents, posing a direct threat to driver and passenger safety. These combined effects make severe wind and dust storms a critical concern for public health officials, emergency planners, and transportation safety agencies throughout the region.

3.3.5.7.2 Property

Severe wind events in Doña Ana County can cause widespread structural damage, particularly to roofs, siding, outbuildings, and other exposed infrastructure. Older structures or those not built to modern wind-resistant standards are especially vulnerable. In the commercial and agricultural sectors, high winds can damage crops, disrupt planting and harvest schedules, and reduce overall yields. Livestock operations may also suffer, as wind-driven dust can contaminate feed and water supplies and contribute to respiratory issues among animals, compounding economic losses for producers.

While dust storms typically cause less direct structural damage, they can still have notable indirect effects on property. Prolonged exposure to airborne particulate matter can degrade building systems, particularly HVAC units, which may require more frequent maintenance or filter replacement. Over time, this can lead to increased operational costs and reduced system efficiency, especially in facilities that rely heavily on-air handling and filtration systems.

3.3.5.7.3 Environmental

Severe wind and dust storms in Doña Ana County have significant environmental consequences, particularly for soil health and air quality. High winds contribute to wind-driven soil erosion, stripping away nutrient-rich topsoil from agricultural fields and natural landscapes. This not only reduces land productivity and crop yields in the short term but also leads to long-term degradation of soil health, especially in drought-prone areas. The loss of topsoil can also disrupt native vegetation and degrade habitats critical to local ecosystems.

In the atmosphere, strong winds often generate dust storms that increase concentrations of particulate matter, especially PM10. These levels frequently exceed the thresholds established by the National Ambient Air Quality Standards (NAAQS). These fine particles degrade air

quality, reduce visibility, and pose risks to both environmental and public health. Prolonged or intense dust events can strain mitigation efforts, accelerate wear on exposed infrastructure and equipment, and contribute to the broader decline in regional environmental quality.

3.3.5.7.4 Government Operations

Severe wind and dust storms present significant challenges to government operations and public infrastructure in Doña Ana County. High winds can damage roads, bridges, and public buildings through debris impacts, surface degradation, and structural wear. These damages often require increased maintenance and repair, placing additional strain on local budgets and public works departments. Power outages caused by strong winds can further disrupt essential services, affecting emergency response, communications, water systems, and administrative functions. Such interruptions complicate coordination efforts during and after storm events, hindering the continuity of government operations.

Dust storms compound these challenges by degrading road surfaces, obscuring traffic signage, and increasing the need for frequent cleaning and maintenance. Water supply systems may also be affected, as airborne dust can contaminate surface water sources, requiring additional filtration and treatment to ensure safe drinking water. Emergency services often experience heightened demand during dust storms, with increased medical calls related to respiratory distress and a higher risk of traffic accidents due to reduced visibility. These conditions place additional pressure on first responders, healthcare providers, and transportation agencies, underscoring the need for robust preparedness and response strategies.

3.3.6 Thunderstorms

3.3.6.1 Profile

As defined in the *SHMP*, severe thunderstorms occur when warm moist air is overrun by dry cool air, resulting in thunderheads forming and causing strong winds, lightning, hail, and heavy rains. The NWS defines severe thunderstorms based on their attributes, such as downbursts with winds of 58 miles per hour or greater, hail 0.75 inches in diameter or greater, or producing a tornado. For the purposes of this plan, thunderstorms include hail and lightning.

- **Hail.** Hail is the transformation of precipitation into solid ice inside the updraft of a thunderstorm to colder areas of the atmosphere. When the updraft can no longer support the weight of the hailstone, it falls. When hail falls, it can be affected by the winds of the storm and fall at an angle that can produce more damage than hail that falls straight down.
- **Lightning.** Lightning is the buildup and discharge of electrical energy between positively and negatively charged particles within a thunderstorm. If the electrical discharge is strong enough, a lightning bolt will develop and travel from the cloud to the ground. It is estimated that a lightning bolt carries as much as three hundred million volts of electricity, heating the air around the bolt to 50,000 degrees Fahrenheit and releasing a sonic boom that is referred to as thunder.

3.3.6.2 Location

The entire geographical area of Doña Ana County can be impacted by thunderstorms, including lightning and hail. The location of lightning and hail may vary.

3.3.6.3 Extent

Severe thunderstorms in Doña Ana County vary widely in intensity, producing lightning and hail events that can range from minimal hazard to life-threatening conditions. Intensity for both hazards is measured using validated scales developed by the National Weather Service (NWS) and the Tornado and Storm Research Organization (TORRO). These scales provide the required quantitative and qualitative ranges of severity that FEMA expects in hazard-mitigation planning. Additionally, an overall intensity can be measured using the Weather Madness Thunderstorm Criteria, showing in Table 34. Weather Madness Thunderstorm Criteria (Source: Weather Madness)

Table 34. Weather Madness Thunderstorm Criteria (Source: Weather Madness)

Thunderstorm Types	Rainfall rate/hr	Max wind gust	Hail size	Peak tornado possibility	Lightning frequency	Darkness factor	Storm impact
TS1 – Weak thunderstorms or thundershowers	.03" –.10"	<25 mph	None	None	Only a few strikes during the storm	Only a few strikes	1. No damage. 2. Wind gusty at times.
TS2 – Moderate thunderstorms	.10" -.25"	25 – 40 mph	None	None	Occasional 1-10	Moderately dark. Hvy. downpours may cause the need for car	1. Heavy downpours. 2. Occasional lightning. 3. Gusty winds. 4. Very little damage. 5. Small tree branches may break. 6. Lawn furniture moved.
TS3 – Heavy thunderstorms (1. Singular or lines or storms)	.25" -.55"	41 – 57 mph	¼" – ½"	EF0	Occasional to frequent 10-20	Dark Car lights used. Visibility low in hvy. Rain & cars may pull off road.	1. Minor damage. 2. Downpours that produce some street flooding. 3. Freq. lightning could cause house fires. 4. Hail within downpours. 5. Small branches broken. 6. Shingles blown off.

Thunderstorm Types	Rainfall rate/hr	Max wind gust	Hail size	Peak tornado possibility	Lightning frequency	Darkness factor	Storm impact
TS4 – Intense thunderstorms (1. Weaker supercells, 2. Bow Echos or lines of storms)	.55" -1.25"	58 – 70 mph	1" – 1.5"	EF1 to EF2	Frequent 20-30	Very dark. Car lights used. Some street lights come on.	1. Moderate damage. 2. Flooding to streams and creeks. Road flooding. 3. Hail causes car dents/ crop damage. 4. Tornado damage. 5. Power outages.
TS5 – Extreme thunderstorms (1. Supercells with family of tornadoes, 2. Derecho windstorms	1.25" -4"	Over 70 mph	Over 1.5" – 4"	EF3 to EF5	Frequent to continuous 30+	Pitch black. Street lights come on. House lights may be used.	1. Severe damage to trees / property. Widespread damage. 2. Flooding rains. 3. Damaging hail. 4. Strong / family of tornadoes. 5. Widespread power outages.

3.3.6.3.1 Lightning

Lightning intensity is expressed using the NWS Lightning Threat Level, which categorizes the likelihood and danger of cloud-to-ground lightning within 12 miles of a location. Levels range from Non-Threatening to Extreme, giving a full spectrum of lightning intensity. The NWS further classifies lightning frequency based on how many cloud-to-ground (CG) strikes occur per minute. In the future, participating jurisdictions within Doña Ana County are susceptible to the full range of lightening intensity up to and including the Extreme category. Lightning Threat Level categories and descriptions are outlined in Table 35.

Table 35: Lightning Threat Levels (Source: NWS)

Lightning Threat Level	Description
Extreme	**An Extreme Threat to Life and Property from Lightning.** A moderate to very high likelihood of CG within 12 miles of a location. Storms may be capable of occasional to excessive lightning.
High	**A High Threat to Life and Property from Lightning.** A low to high likelihood of CG within 12 miles of a location. Stoms may be capable of occasional to excessive lightning.
Moderate	**A Moderate Threat to Life and Property from Lightning.** A very low to moderate likelihood of CG within 12 miles of a location. Storms may be capable of occasional to excessive lightning.

Lightning Threat Level	Description
Low	**A Low Threat to Life and Property from Lightning.** A very low to occasional likelihood of CG within 12 miles of a location. Storms may be capable of occasional to frequent lightning.
Very Low	**A Very Low Threat to Life and Property from Lightning.** A very low likelihood of CG within 12 miles of a location, with storms capable of occasional lightning.
Non-Threatening	**No Discernable Threat to Life and Property from Lightning.** No lightning anticipated within 12 miles of a location.

In addition to the Lightning Threat Level descriptions above, the NWS categorizes the frequency of lightning as shown in Table 36.

Table 36: Frequency of Lightning descriptions (Source: NWS)

Frequency	Description
Occasional	CG lightning at the rate of 1 to 3 flashes per minute (about 5 to 15 flashes per 5 minutes) associated with a given lightning storm.
Frequent	CG lightning at the rate of 4 to 11 flashes per minute (about 20 to 55 flashes per 5 minutes) associated with a given lightning storm.
Excessive	CG lightning rate of 12 flashes or more per minute (about 60 flashes or more per 5 minutes) and is nearly continuously associated with a given lightning storm.

3.3.6.3.2 Hail

The extent of hail is measured utilizing the TORROHailstorm Intensity Scale, from H0 to H10, indicating the severity of the hail. The scale utilizes hail size, texture, numbers, fall speed, speed of storm translation, and strength of wind. In the future, participating jurisdictions within Doña Ana County are susceptible to the full range of hail intensity up to and including the H10 category. Table 37 displays the scale, intensity category, size, and description of potential impacts.

Table 37: Torro Hailstorm Intensity Scale (Source: TORRO)

Scale	Intensity Category	Size	Potential Damage Impacts
H0	Hard hail	Pea	No damage
H1	Potential damaging	Mothball	Slight general damage to plants and crops
H2	Significant	Marble, grape	Significant damage to fruit, crops, and vegetation

Scale	Intensity Category	Size	Potential Damage Impacts
H3	Severe	Walnut	Severe damage to fruit and crops, damage to glass and plastic structures, paint and wood scored
H4	Severe	Pigeon's egg	Widespread glass damage, vehicle bodywork damage
H5	Destructive	Golf ball	Wholesale destruction of glass, damage to tiled roofs, significant risk of injuries
H6	Destructive	Hen's egg	Bodywork of grounded aircraft dented, brick walls pitted
H7	Destructive	Tennis ball	Severe roof damage, risk of serious injuries
H8	Destructive	Softball	Severe damage to aircraft bodywork
H9	Super Hailstorms	Grapefruit	Extensive structural damage, risk of severe or even fatal injuries to persons caught in the open
H10	Super Hailstorms	Melon	Extensive structural damage, risk of severe or even fatal injuries to persons caught in the open

3.3.6.4 History

Doña Ana County has experienced several severe thunderstorms that have resulted in lightning and hail damage, as shown in Table 38.

Table 38: Historical impacts of thunderstorms in Doña Ana County (Sources: NCEI and 2021 Doña Ana AHMP)

Date	Description of Event
June 3, 2004	A merger of two severe thunderstorms formed a right-moving supercell that impacted areas mainly west and north of Las Cruces, bringing damaging winds and golf ball-sized hail. The Las Cruces Airport was the hardest hit, with a recorded wind gust of 62 mph that toppled a tower. Hail caused significant damage to aircraft, particularly helicopters operated by Southwest Air Ambulance. The storm also damaged the airport's runway lighting system and caused roof damage to Southwest Aviation. Nearby, a prison facility sustained shattered windows and windshields. Total property damage was estimated at $1.2 million.
September 13, 2006	A heavy-precipitation supercell thunderstorm moved eastward from far eastern Luna County along Interstate 10 through Las Cruces, producing golf ball-sized hail throughout much of its path. The storm caused a four-car collision on I-10, extensive roof and vehicle damage, and destroyed numerous skylights in Mesilla and southern Las Cruces. The U.S. Border Patrol checkpoint was evacuated due to the severity of the storm. With damage exceeding $10 million, it stands as the costliest hailstorm ever recorded in the NWS El Paso county warning area.
August 19, 2014	Six people, including several middle school football players, were injured when lightning from a nearby thunderstorm struck. While no fatalities

Date	Description of Event
	occurred, one student who was closest to the strike sustained serious injuries and was hospitalized for over a week.
April 26, 2022	An isolated thunderstorm formed over the higher terrain of northern Mexico and tracked northeast into far southern New Mexico. Although moisture levels were modest on the backside of the dryline, sufficient wind shear allowed the storm to persist into the late evening. As it moved through Santa Teresa, it produced hail up to the size of golf balls that resulted in over $500,000 worth of damage to roofs, vehicles, and the local NWS office.
June 8, 2022	A dryline pushed deeper moisture into areas east of the Rio Grande Valley, setting the stage for severe weather. A deep upper-level low over the Baja Peninsula, combined with a disturbance lifting northward from it, triggered several severe thunderstorms across south-central New Mexico. These storms produced hail up to the size of quarters and wind gusts reaching 74 mph.
October 16, 2022	A cutoff upper low over the northern Gulf of California, paired with a 90-knot jet streak moving across southern New Mexico, set the stage for active weather. When combined with a cold front pushing down from the north, these features triggered heavy rainfall and severe thunderstorms across the region. These storms produced hail up to the size of quarters.

3.3.6.5 Probability

Thunderstorms that produce hail and lightning are an annual occurrence and are **highly likely** to occur in Doña Ana County each year.

3.3.6.6 Climate Change Impacts

Climate change is anticipated to affect the frequency and intensity of severe thunderstorms. In 2023 alone, the U.S. experienced a record-breaking 19 severe storm events, each causing over a billion dollars in damages, nearly 50% more than the previous record of 13 in 2020. Large hail events will also increase, with future warming expected to increase conditions favorable for large hail. On average, insured hail losses in the U.S. averaging between $8 billion and $14 billion annually. Although the relationship between climate change and severe storms is complex, many environmental factors that fuel thunderstorms, such as warm moist air and atmospheric instability, are becoming more common or expanding into new regions and seasons.

A 2014 study led by researchers at the University of California, Berkeley, and published in the journal *Science*, projects that lightning strikes in the United States could increase by approximately 50% by the end of the 21st century due to global warming. The study estimates that for every 1°C rise in global temperature, lightning strikes may increase by about 12%. This projection is based on the relationship between warming temperatures, increased atmospheric energy, and higher precipitation rates, which collectively contribute to more frequent lightning activity. Currently, regions like the Midwest and Florida's "lightning alley" experience the highest frequency of lightning strikes, but future patterns may shift. The study also highlights the

potential implications of increased lightning, including a higher risk of wildfires, as lightning is a leading natural cause of such fires in the U.S.

3.3.6.7 Vulnerability and Consequence Assessment

The following vulnerability and consequence assessment evaluates the populations, infrastructure, and critical systems most likely to be affected by thunderstorms, helping to inform targeted mitigation strategies across the planning area.

3.3.6.7.1 People

All individuals who live, work, or spend time outdoors in Doña Ana County are at risk during severe thunderstorms, particularly from lightning and hail. Those engaged in outdoor activities, such as agricultural workers, construction crews, and students, are especially vulnerable during peak storm periods. While thunderstorms are common throughout the county, their most severe impacts are often localized and vary significantly by event.

Lightning presents a notable threat to human life and safety, with the potential to cause serious injury or death. Hail can also be hazardous, particularly when large hailstones fall unexpectedly, and individuals lack access to shelter. In addition to direct impacts, lightning during dry storms can ignite wildfires, compounding the danger for nearby residents and first responders.

The availability of timely warnings and public awareness efforts plays a critical role in reducing harm. Without adequate alert systems or access to safe indoor shelter, the risk of injury or fatality during severe weather events increases substantially.

3.3.6.7.2 Property

Property damage from thunderstorms in Doña Ana County is often substantial, particularly due to large hail and lightning. Hailstorms can damage roofs, shatter windows and skylights, dent vehicles, and destroy crops, resulting in costly repairs and economic losses. Structures with aging or unreinforced building materials are especially vulnerable to impact from large hailstones.

Lightning strikes frequently damage electrical systems, disrupt communication networks, and can ignite fires in both residential and commercial buildings. These incidents may lead to localized service outages and costly infrastructure repairs. While damage levels vary by event, the cumulative impact of frequent hail and lightning activity represents a significant threat to the county's built environment and economy.

3.3.6.7.3 Environmental

Thunderstorms can have a range of environmental effects. Lightning-induced wildfires pose risks to the fragile desert ecosystem, especially in areas with dense vegetation or high fuel loads. Flash flooding from intense storm rainfall can cause erosion, damage riparian areas, and degrade water quality in the Rio Grande and associated arroyos.

Hail can also devastate crops and damage native vegetation, particularly during the growing season. Environmental recovery may take months to years depending on storm intensity and location.

3.3.6.7.4 Government Operations

County and municipal operations in Doña Ana County are vulnerable to disruption from severe thunderstorms. Power outages caused by lightning strikes or wind damage can affect critical services such as emergency response, water treatment, and traffic control systems. Storm-related disruptions may also delay school operations, public transit, and other essential community functions.

3.3.7 Wildfire

3.3.7.1 Profile

A wildfire is an uncontrolled and rapidly spreading fire that occurs in areas with abundant vegetation such as forests, grasslands, shrublands, or prairies. Unlike controlled burns, which are intentionally set for ecological or land management purposes, wildfires ignite without planned human intent and can grow quickly under the right conditions. Natural causes like lightning strikes can spark wildfires, but a significant number are also started by human activities such as unattended campfires, discarded cigarettes, power line malfunctions, or deliberate arson. Once ignited, wildfire can become extremely difficult to contain due to the complex interactions between fuel, weather, and topography.

The spread and intensity of wildfires are driven by the so-called “fire triangle” - fuel, oxygen, and heat. Dry vegetation acts as fuel, and weather conditions like high temperatures, low humidity, and strong winds accelerate fire behavior. Sloped terrain can also intensify fires, as flames and heat rise quickly uphill. As climate change drives warmer temperatures and prolonged droughts, many areas especially in the western U.S. are experiencing longer fire seasons and more extreme wildfire events. These fires can destroy homes, displace communities, and degrade air quality over large regions due to smoke and particulate matter.

Wildfires are a natural part of many ecosystems and can even be beneficial by clearing dead vegetation, returning nutrients to the soil, and promoting new plant growth. However, increasing human development in fire-prone areas and the growing intensity of wildfires due to climate change are transforming them into more frequent and destructive disasters. Effective wildfire management involves a combination of prevention, mitigation, and emergency response, as well as land-use planning that considers fire risk.

3.3.7.2 Location

Wildfire can occur anywhere, and the potential size of a wildfire can be correlated to the area where fuels exist.

The wildland-urban interface (WUI) is the zone where human development – homes, businesses, and infrastructure – meets or intermingles with wildland vegetation such as forests, grasslands or shrublands. WUI is particularly vulnerable to wildfires as natural fuels in the area are located close to human structures. There are two types of WUI:

- **Intermix WUI.** Houses and wildland vegetation are interspersed.
- **Interface WUI.** A clear boundary exists between dense development and adjacent wildland areas.

The New Mexico Wildfire Risk Assessment Portal offers services to identify wildfire risk in a particular area. The Orange color shows the intermix areas of the county, while the yellow color shows the interface areas of the county.

Figure 27: Doña Ana County Wildland Urban Interface profile

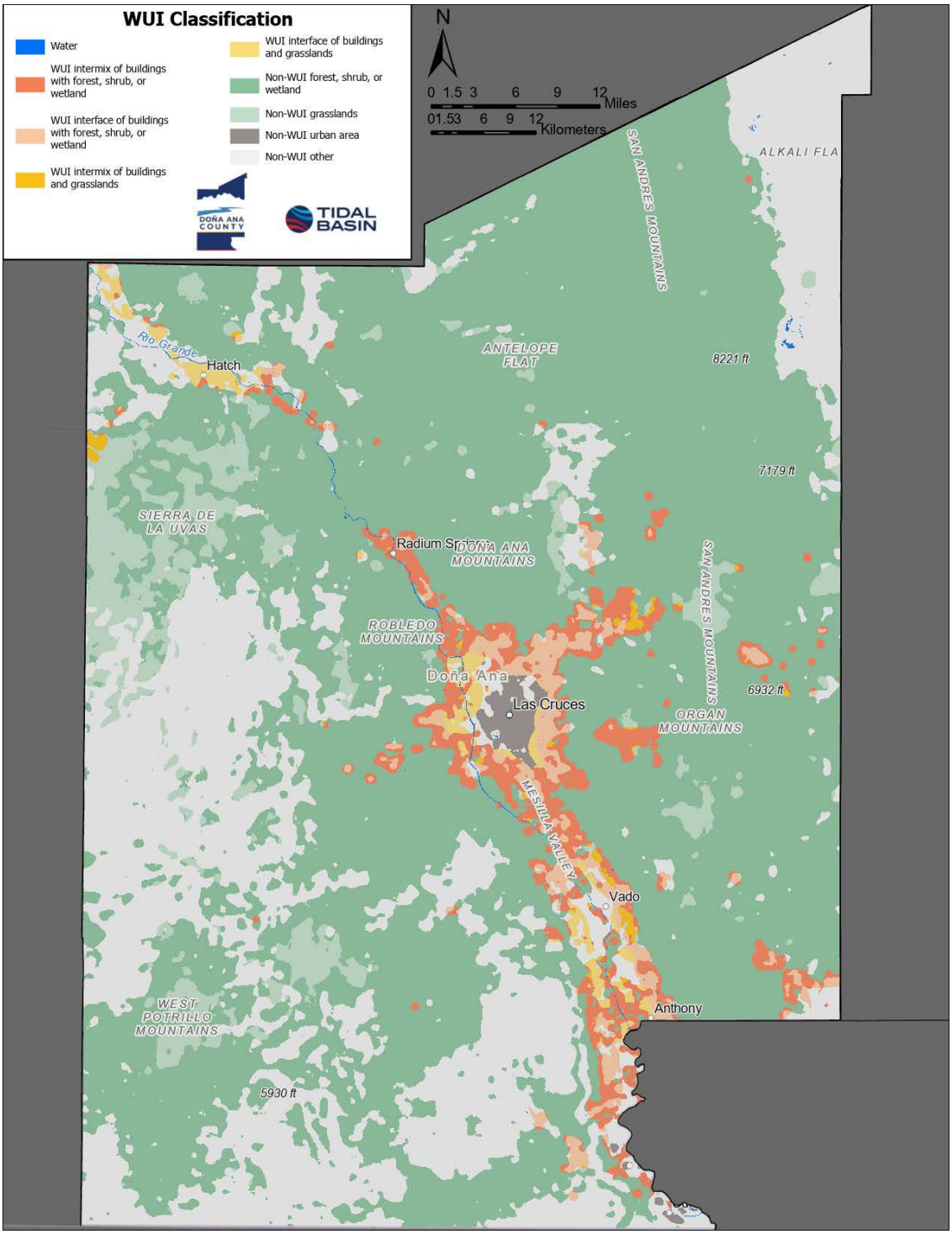


Figure 28: City of Anthony Wildland Urban Interface profile

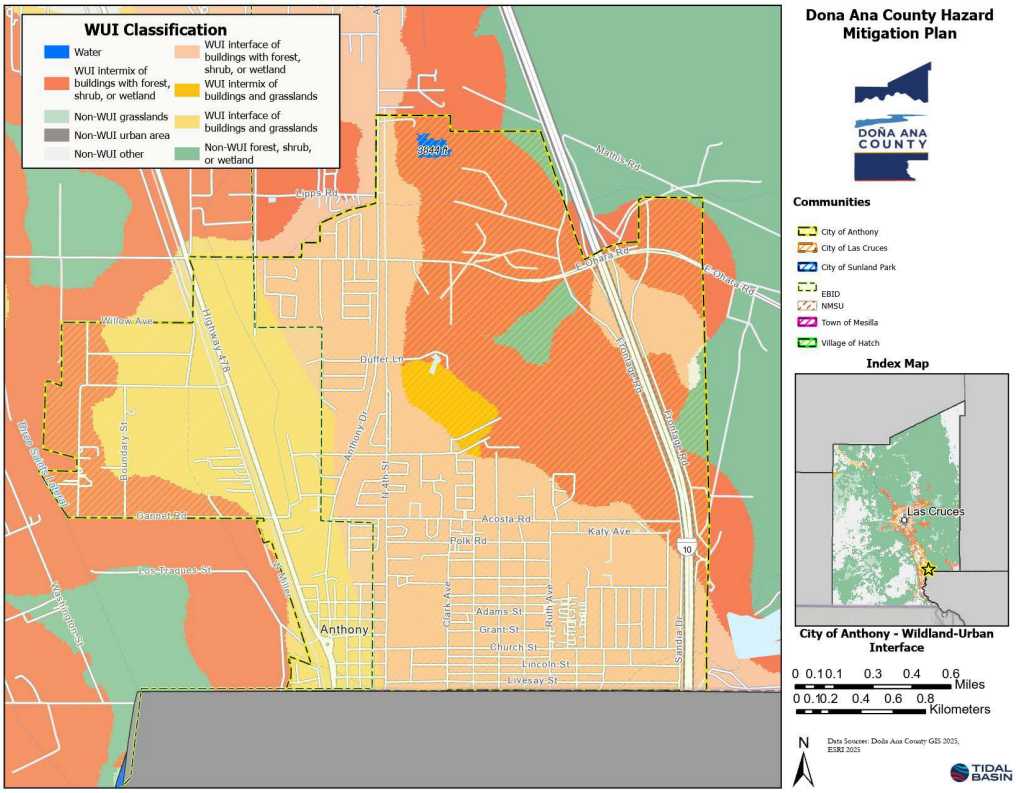


Figure 29: City of Las Cruces Wildland Urban Interface profile (first section)

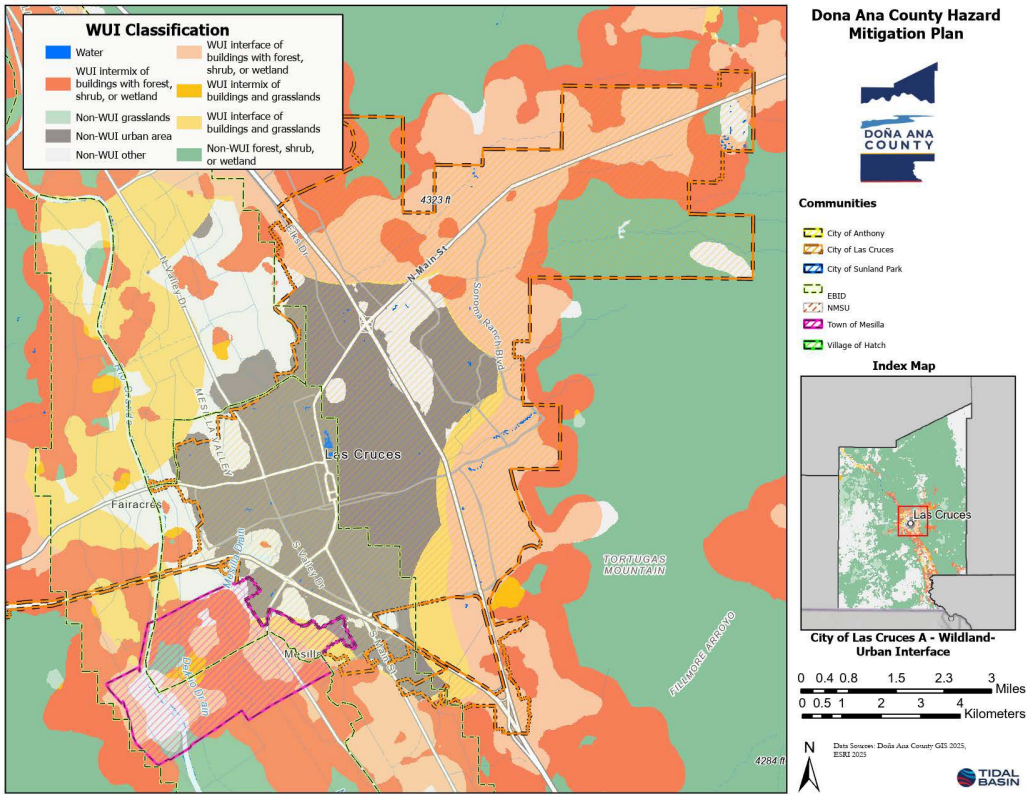


Figure 30: City of Las Cruces Wildland Urban Interface profile (second section)

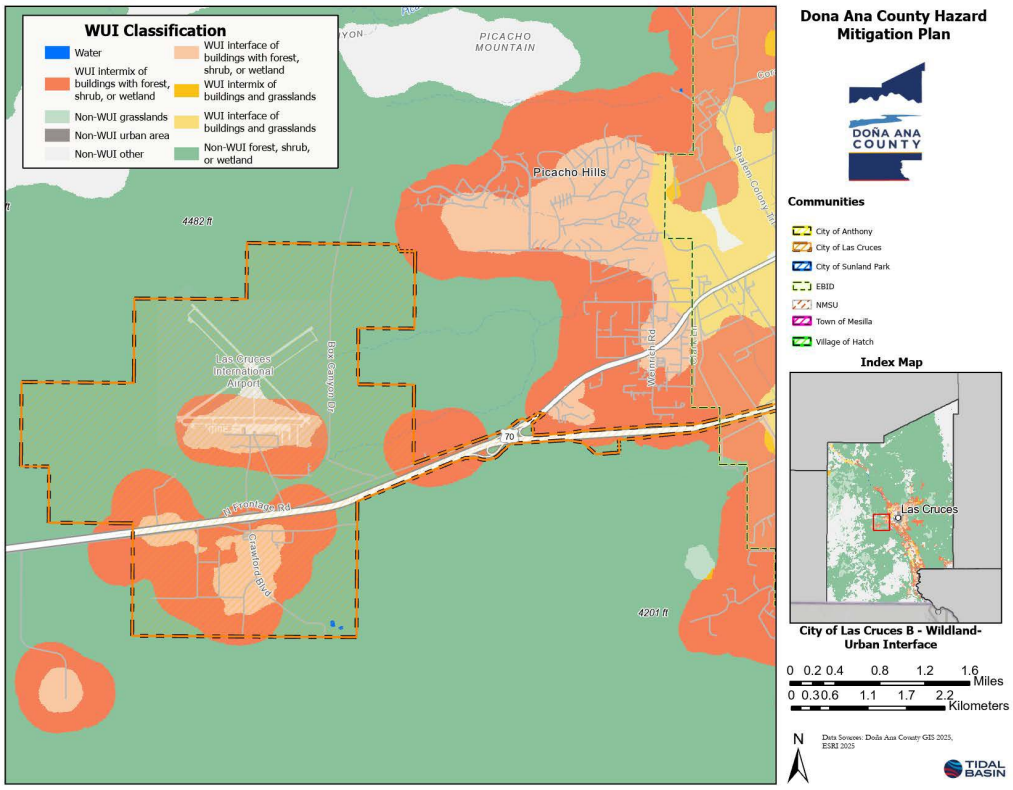


Figure 31: City of Sunland Park Wildland Urban Interface profile

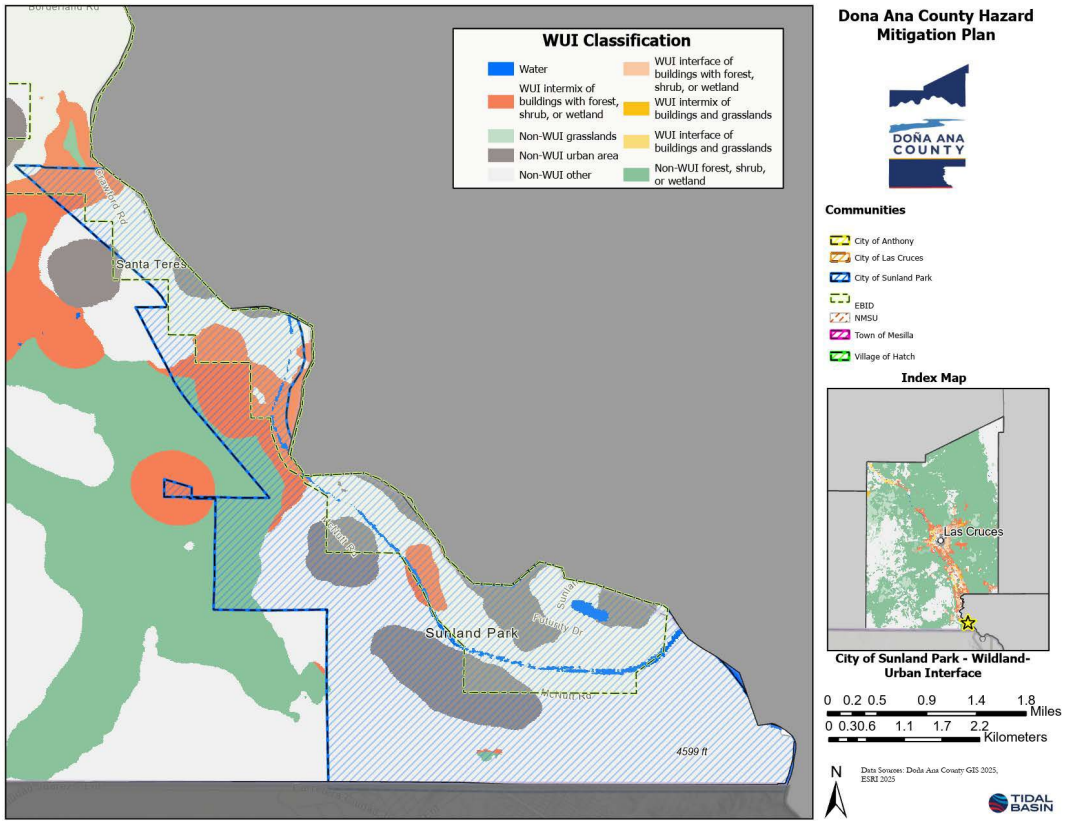


Figure 32: Town of Mesilla Wildland Urban Interface profile

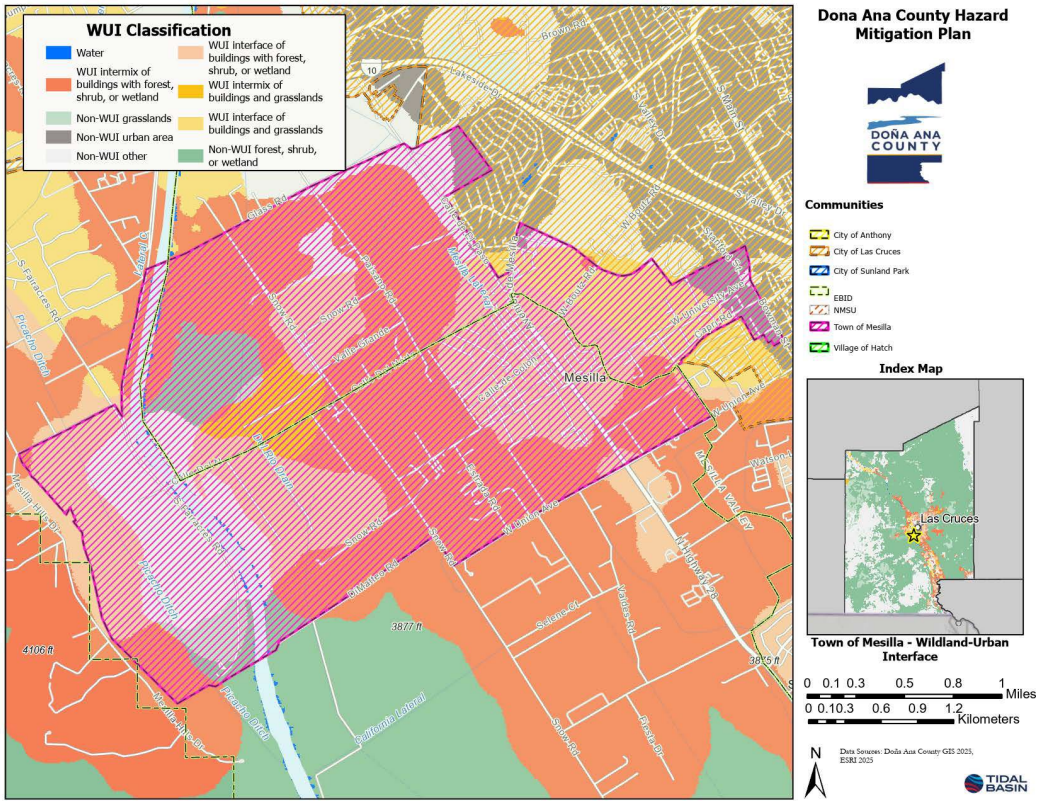
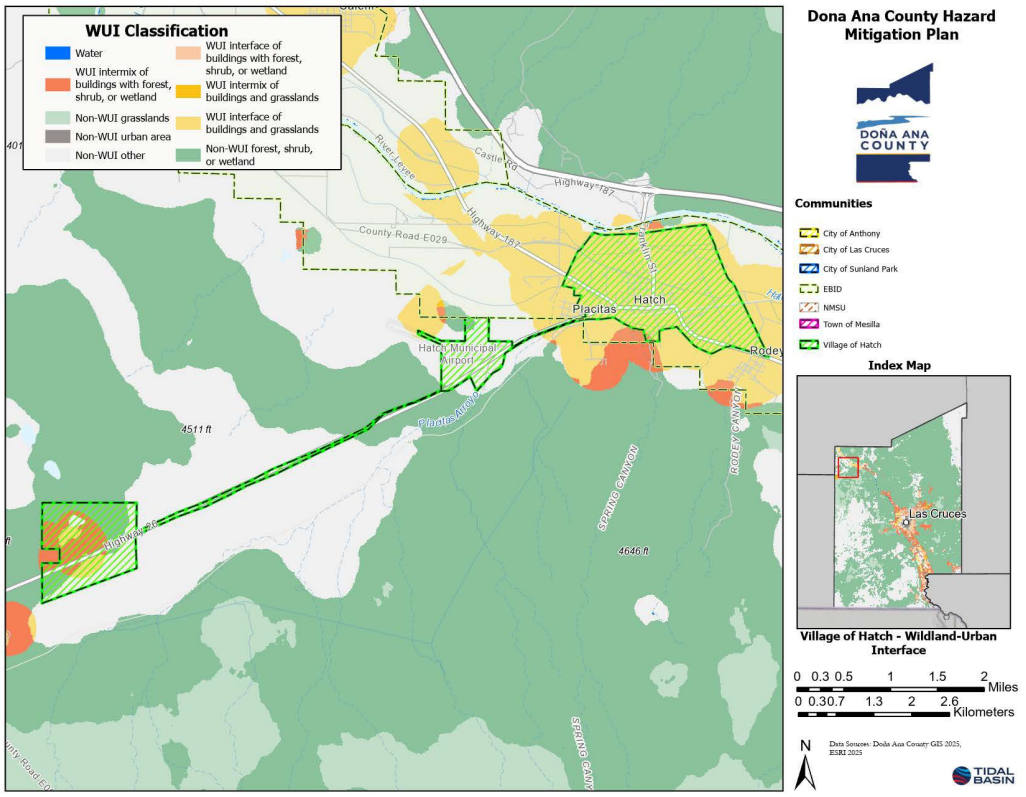


Figure 33: Village of Hatch Wildland Urban Interface profile



3.3.7.3 Extent

The U.S. Forest Service (USFS), BLM, and New Mexico State Forestry Division (NMSFD) utilize the National Fire Danger Rating System to ascribe ratings to fires, based on estimates of weather, fuel types, and moisture levels. The NFDRS is used to inform public warnings and operational decisions. Doña Ana is susceptible to any of these danger levels based on local conditions. The scale categorizes fire danger into five levels, described in Table 39.

Table 39: National Fire Danger Rating System (Source: USFS)

Level	Description
Low	Fires spread slowly; control is easy.
Moderate	Fires spread moderately; control is manageable.
High	Fires spread rapidly; may be difficult to control.
Very High	Fires spread very rapidly; control is challenging.
Extreme	Fires spread explosively; control is extremely difficult.

The extent and magnitude of wildfire incidents for Doña Ana County are influenced by numerous factors including vegetation densities, previous burn history, hydrologic conditions, climatic conditions such as temperature, humidity, and wind, ignition source (human or natural), topographic aspect and slope, and remoteness of area. Wildfire sizes in the county have historically ranged from 1 acre to over 5,000 acres, with the majority being less than 100 acres.

Figure 34 through Figure 41 show the burn potential profiles for sub jurisdictions within Doña Ana County, while Figure 42 through Figure 45 provide burn potential profiles for quadrants of the county, including unincorporated areas.

Figure 34: City of Anthony burn potential profile

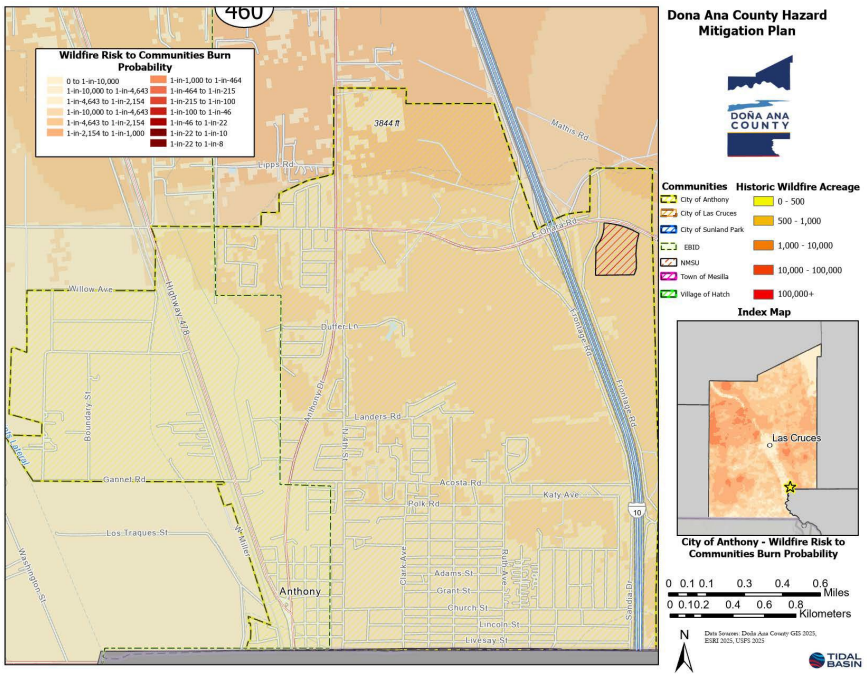


Figure 35: City of Las Cruces burn potential profile (first section)

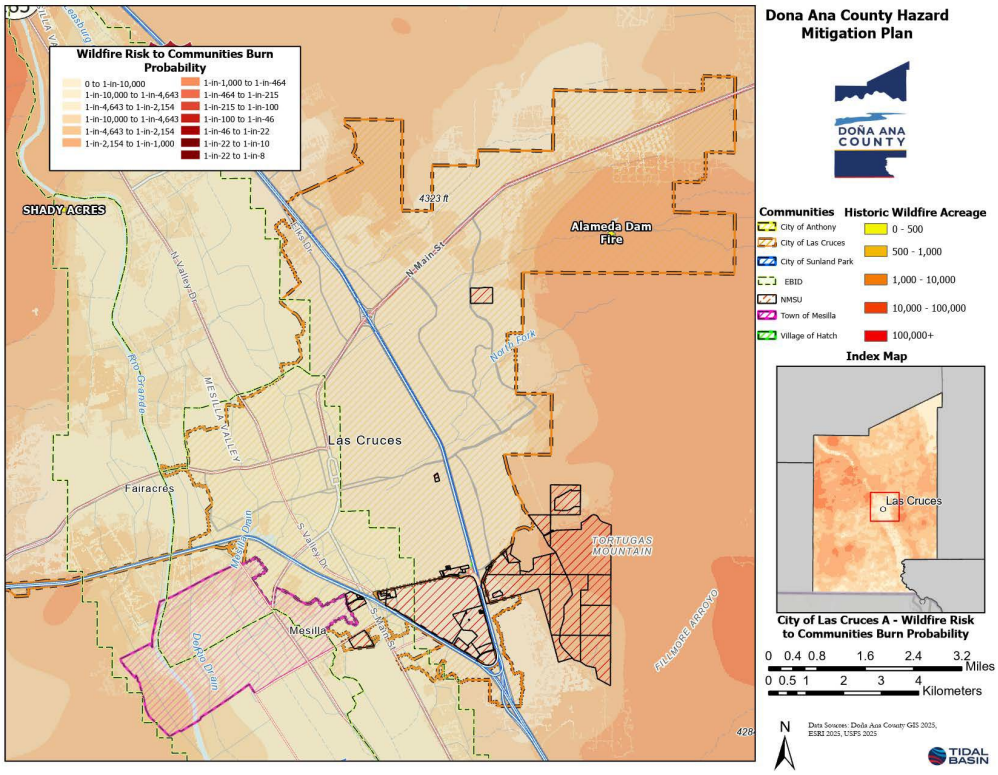


Figure 36: City of Las Cruces burn potential profile (second section)

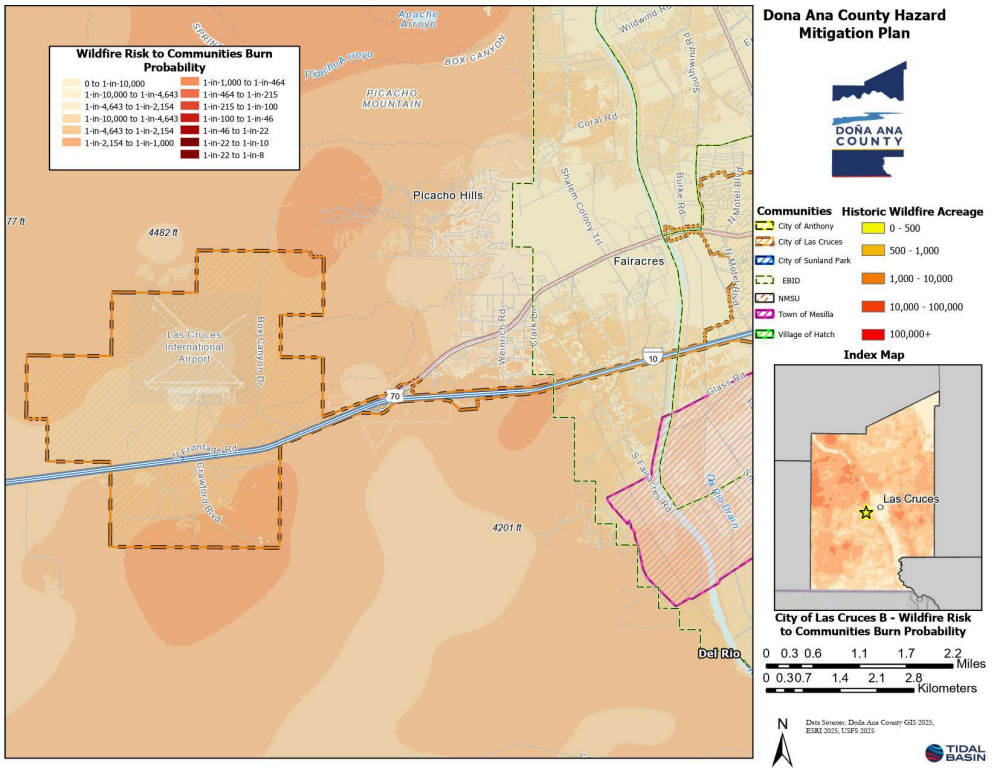


Figure 37: City of Sunland Park burn potential profile

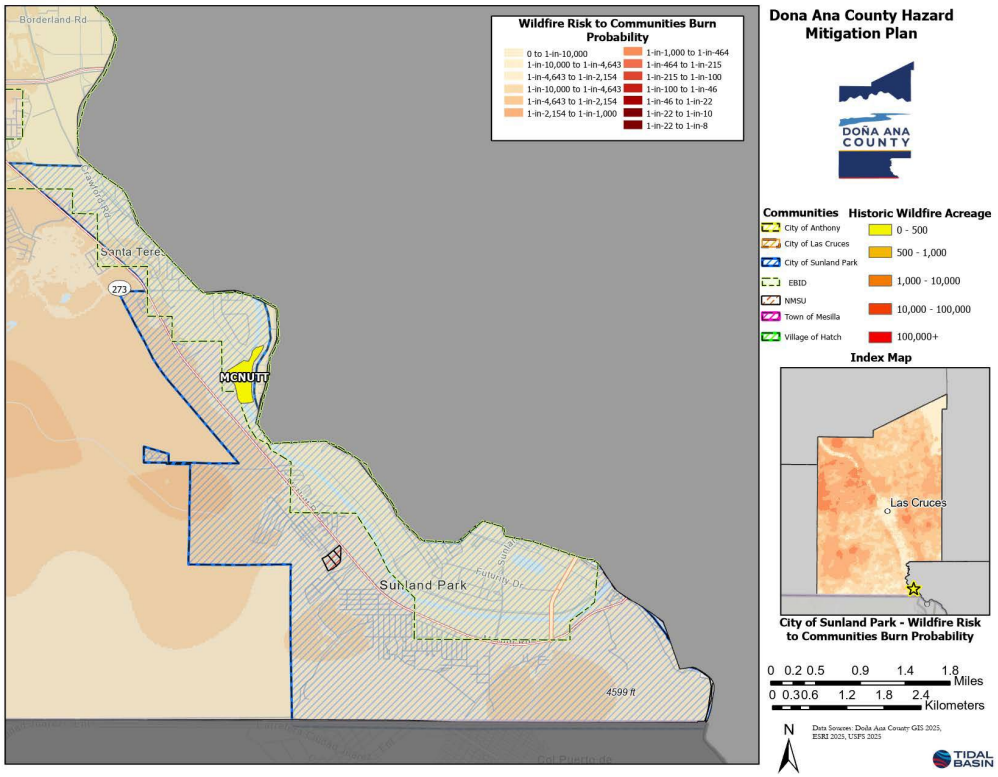


Figure 38: NMSU burn potential profile (first section)

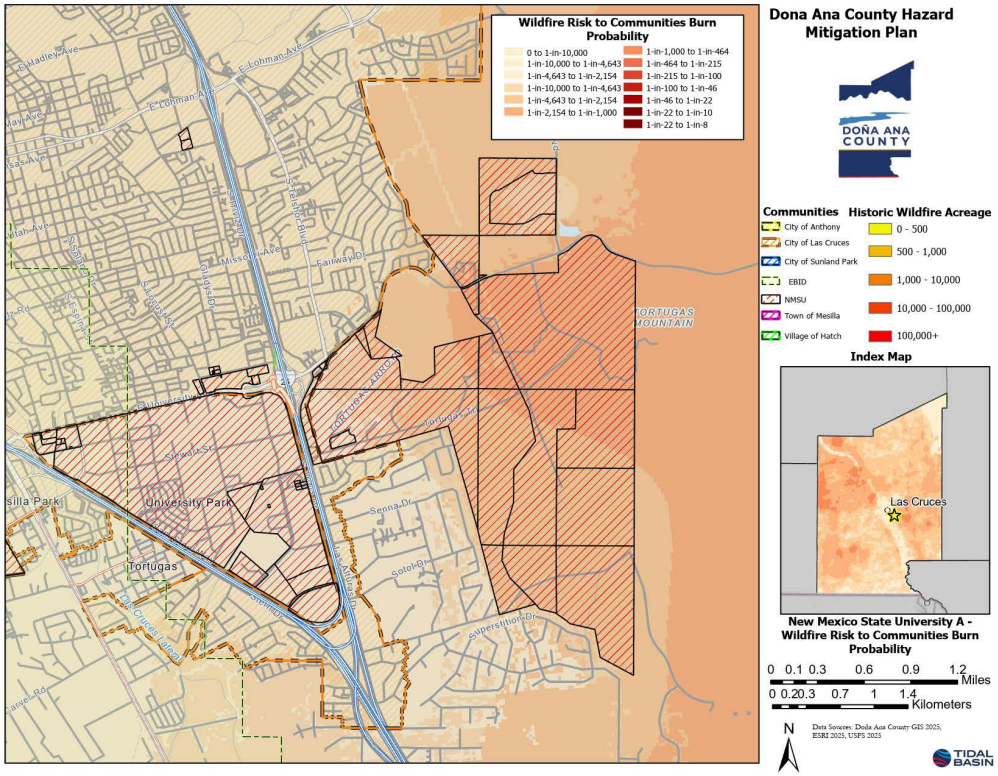


Figure 39: NMSU burn potential profile (second section)

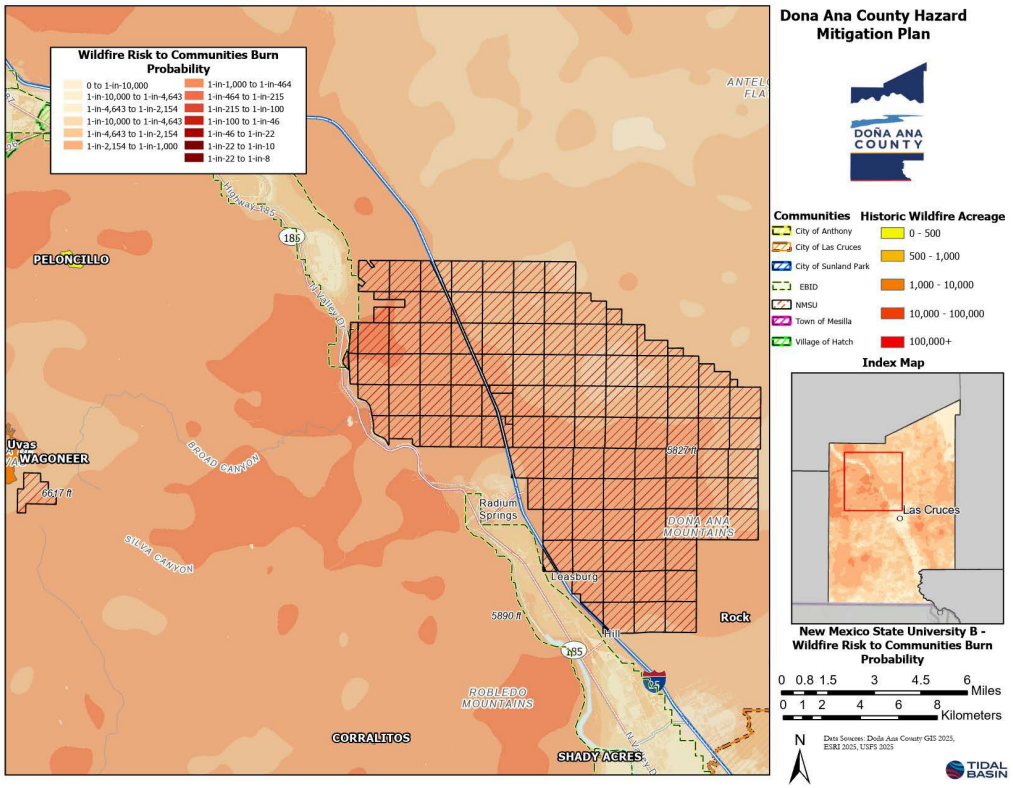


Figure 40: Town of Mesilla burn potential profile

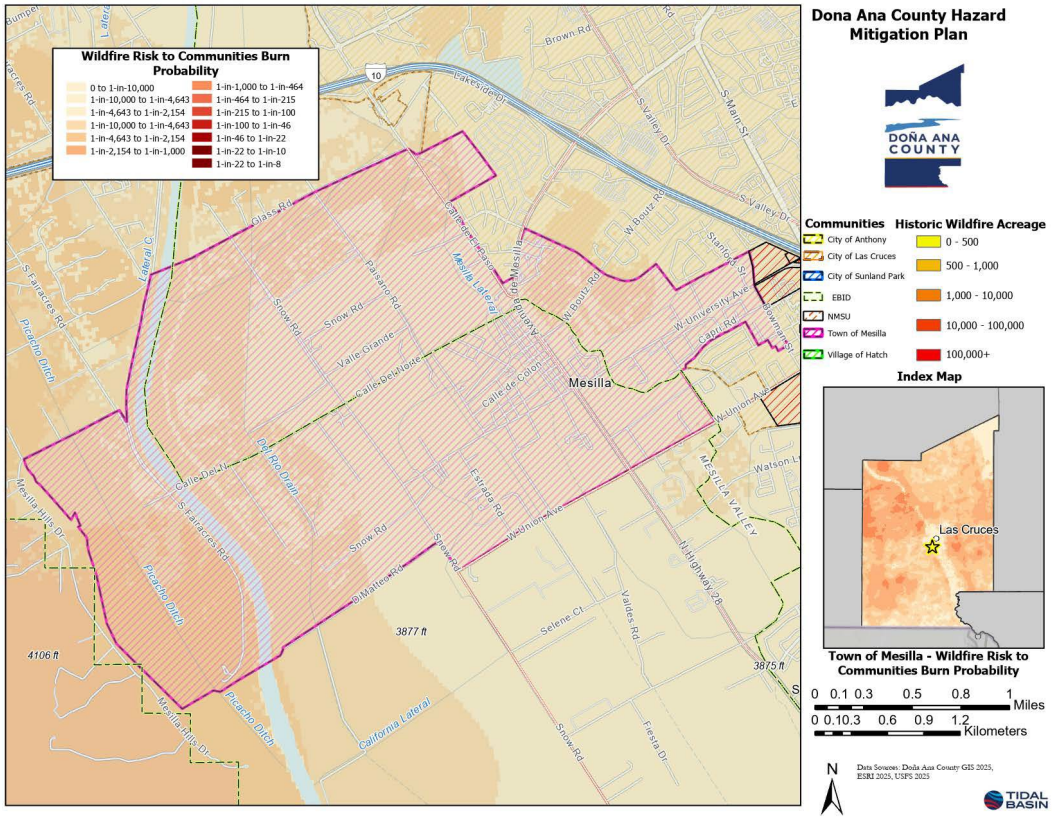


Figure 41: Village of Hatch burn potential profile

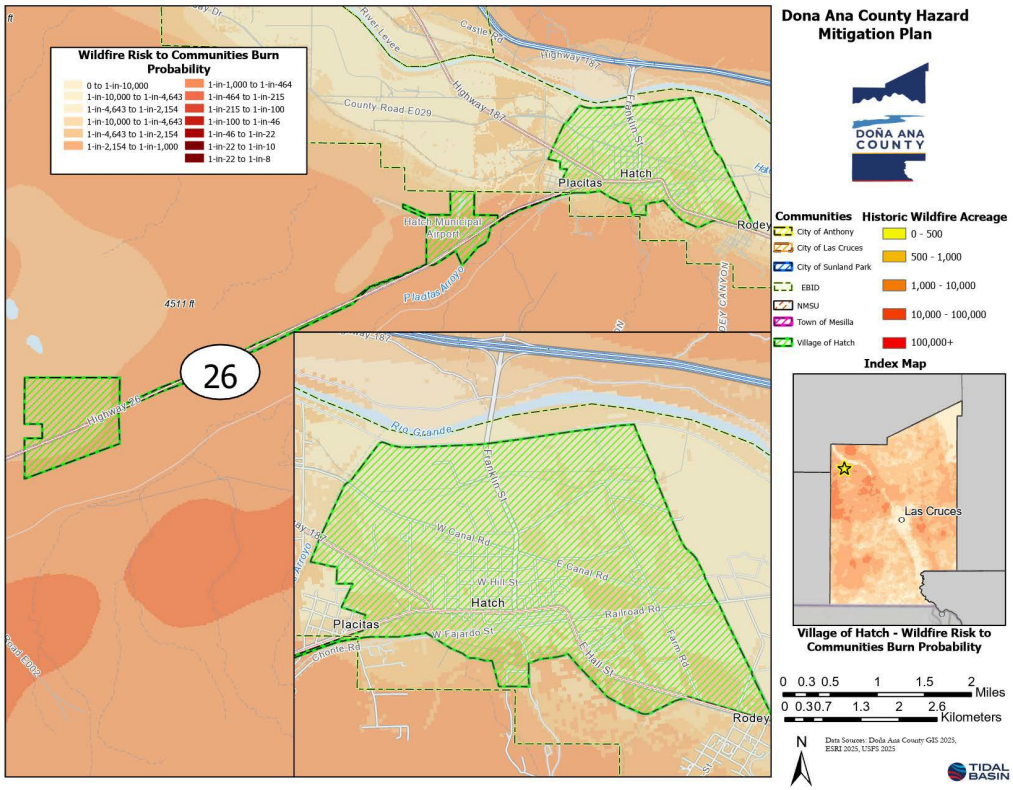


Figure 42: Doña Ana County burn potential profile (NW quadrant)

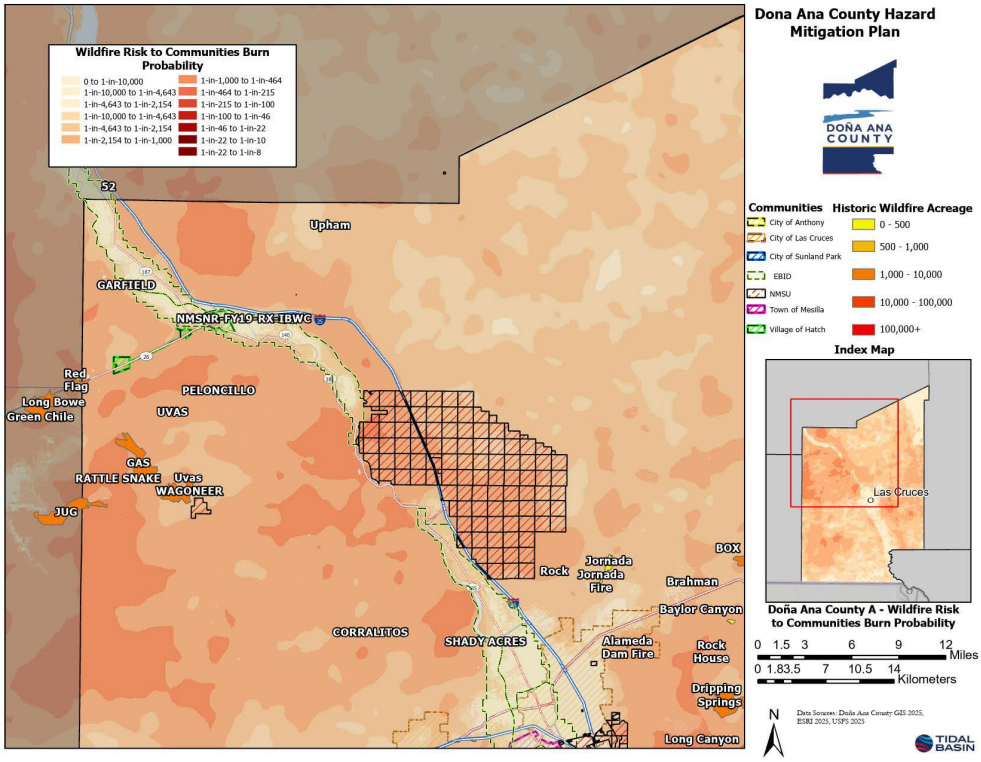


Figure 43: Doña Ana County burn potential profile (NE quadrant)

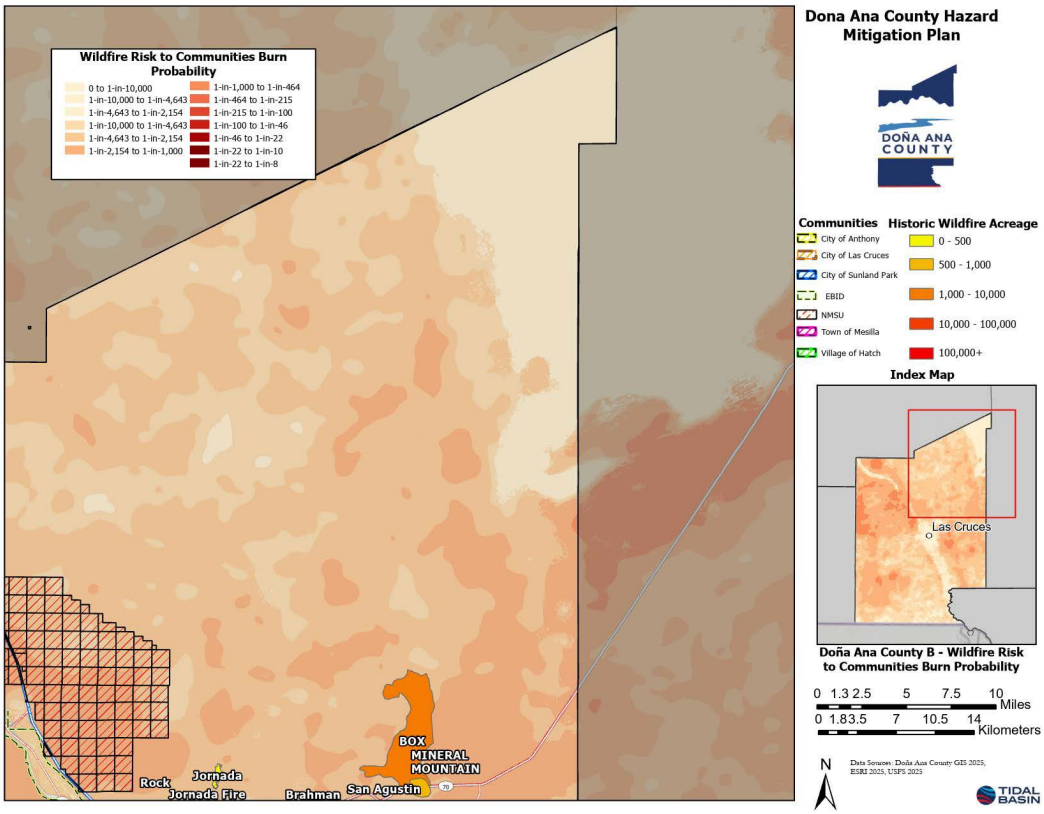


Figure 44: Doña Ana County burn potential profile (SW quadrant)

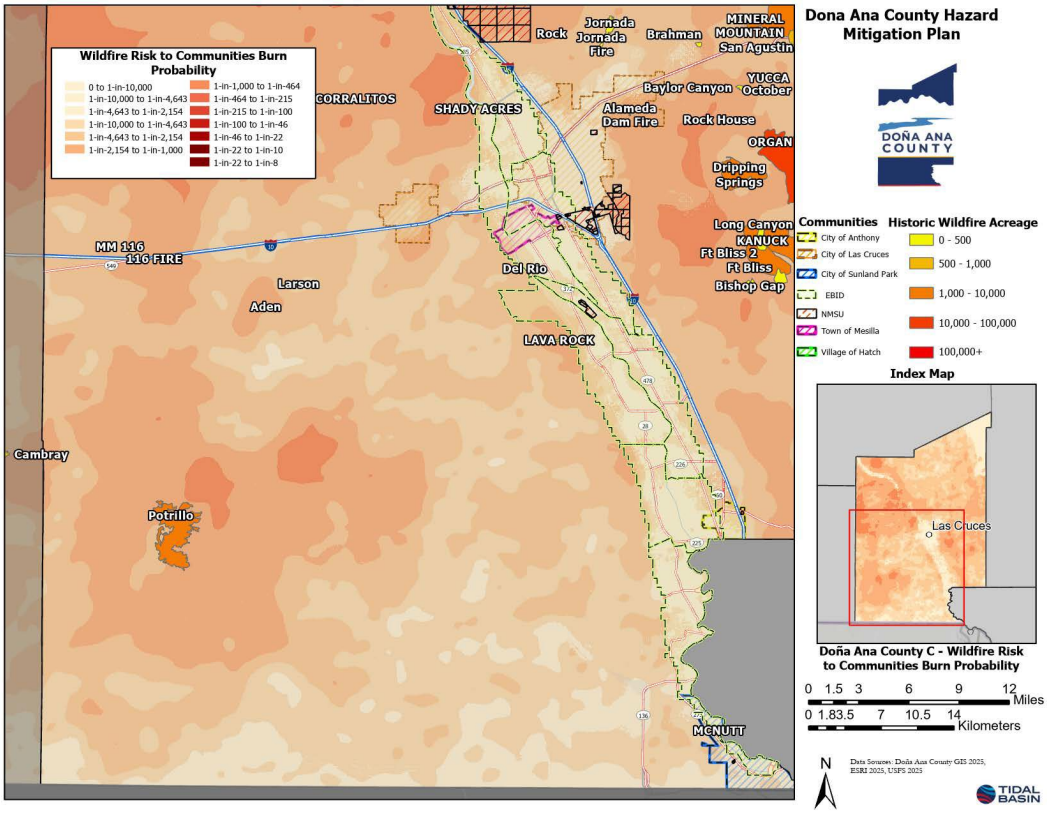
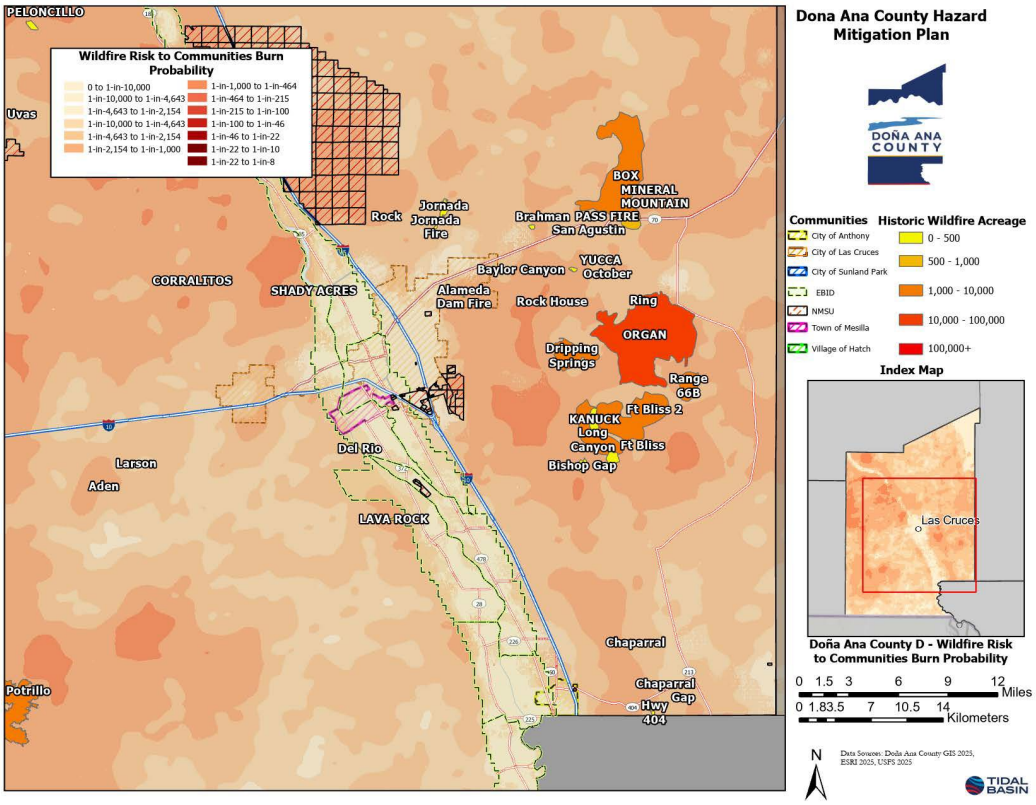


Figure 45: Doña Ana County burn potential profile (SE quadrant)



3.3.7.4 History

Doña Ana County has experienced many significant wildfires since 1900, influenced by factors such as climate, land use, and human activity. Table 40 provides an overview of notable wildfires in the county, including their causes, affected areas, and impacts.

Table 40: Historical impacts of wildfire in Doña Ana County (Source: Multiple sources)

Date	Event Description
June 10, 2011	The Augustine Fire was ignited by human causes and burned an area approximately 6 miles east of Las Cruces, New Mexico in the Organ Mountains. The fire was contained June 15, 2011, and burned a total of 1,472 acres. Fire suppression costs were estimated at $60,000.00.
April 20, 2011	The Range 66B Fire was ignited by human causes and burned an area approximately 11 miles east of Las Cruces, New Mexico on the east side of the Organ Mountains. The fire was contained the same day and burned a total of 1,100 acres.
April 3, 2011	The Green Chile Fire was ignited by human causes and burned an area approximately 9 miles southwest of Hatch, New Mexico near the county line. The fire was contained on April 3, 2011, and burned a total of 1,400 acres. Fire suppression costs were estimated at $30,000.

Date	Event Description
June 20, 2010	The Long Canyon Fire was ignited by human causes and burned an area four miles east of Las Cruces, New Mexico in the Organ Mountains. The fire was contained June 24, 2010, and burned a total of 2,582 acres. Fire suppression costs were estimated at over $850,000.
June 15, 2010,	the Fort Bliss 2 Fire was ignited by human causes and burned an area south of Soledad Canyon, New Mexico. The fire was contained June 25, 2010, and burned a total of 5,160 acres. Fire suppression costs were estimated at over $900,000.
April 15, 2008	The Trigo Fire was a human-caused wildfire that burned approximately 59 homes and led to a FEMA disaster designation. This designation enabled the allocation of $2.1 million in public assistance funds for recovery efforts. The burned was estimated at approximately 59,000 acres.

Additionally, Doña Ana County's exposure to regional wildfire impacts has become increasingly evident in recent years. In 2024, the County deployed firefighters and animal rescue teams to support response efforts near Ruidoso, New Mexico, demonstrating both its vulnerability to cascading impacts and its role in statewide mutual aid. In 2022, the Calf Canyon/Hermits Peak Fire became the largest wildfire in New Mexico's history, burning over 340,000 acres and destroying more than 900 structures. Although centered in San Miguel and Mora counties, the fire's massive scale, resulting in an estimated $5.14 billion in losses, had far-reaching consequences that extended beyond the immediate burn area. A decade earlier, the 2012 Little Bear Fire in Lincoln County destroyed 242 homes and scorched approximately 170,000 acres, causing over $11 million in economic losses. Similarly, the 2011 Las Conchas Fire, which burned more than 156,000 acres, raised alarm throughout the region despite occurring outside Doña Ana County. These events collectively illustrate the increasing risk and regional relevance of wildfire, emphasizing the need for preparedness and coordinated response across county lines.

3.3.7.5 Probability

New Mexico has experienced a significant number of large wildfires over the past few decades. For instance, in 2011, the state recorded over 150 wildfires larger than 100 acres, marking the highest count in recent history. Additionally, between 2000 and 2020, more than 1,000 wildfires exceeding 100 acres occurred statewide. In 2020 alone, at least 543 wildfires were reported across New Mexico, with several burning over 1,000 acres each. Therefore, it is **highly likely** that Doña Ana County will experience wildfire in any given year.

3.3.7.6 Climate Change Impacts

Future climate change is expected to significantly amplify the frequency, intensity, and impact of wildfires in New Mexico, posing substantial risks to ecosystems, communities, and infrastructure. Rising temperatures and prolonged droughts are leading to more frequent and severe wildfires in the state. For instance, in June 2024, New Mexico experienced a devastating week of simultaneous wildfires and flooding, resulting in the destruction of 1,400 structures and

the displacement of 8,000 people. These events underscore the escalating threat posed by climate change-induced extreme weather patterns.

Additionally, hotter and drier conditions are hindering the natural regeneration of forests post-wildfire. Research indicates that the combination of increased tree mortality and arid conditions is reducing the availability of suitable conditions for tree seedling establishment. By 2050, only about 75% of the western U.S. is projected to have climates conducive to tree regeneration, down from 95% in 1981–2000.

3.3.7.7 Vulnerability and Consequence Assessment

The following vulnerability and consequence assessment evaluates the populations, infrastructure, and critical systems most likely to be affected by wildfire, helping to inform targeted mitigation strategies across the planning area.

3.3.7.7.1 People

A wildfire in Doña Ana County can have significant and wide-ranging impacts on people, affecting their safety, health, economy, and overall well-being. Wildfire can result in fatalities and serious injuries, especially when fires spread rapidly or affect populated areas. The risk of injury even remains high during evacuations and firefighting efforts. Wildfires destroy homes, businesses, and infrastructure, leading to displacement of residents. The financial toll of rebuilding is immense, especially for communities that rely on farming and ranching.

3.3.7.7.2 Property

Rural and WUI areas where residential development meets flammable vegetation are especially vulnerable to wildfire. The county's arid climate, increasing temperatures, and periods of drought exacerbated by climate change, create conditions where wildfires can ignite and spread rapidly. Areas with dense brush, dry grasslands, and limited vegetation management are particularly at risk.

Structures located within the WUI are at greatest risk from wildfires. Residential areas near desert scrub and foothills (such as those near the Organ Mountains or Mesilla Valley) are at risk of property loss due to fast-moving fires. Homes built with flammable materials or lacking defensible space are especially vulnerable. Many homes in Doña Ana County are located near forests, grasslands, or desert scrub, which increases the risk of ignition from nearby fires. Properties without cleared areas around structures are more likely to catch fire from embers or direct flame contact.

Fires can completely destroy homes and other buildings, leading to significant financial loss and displacement of residents. Wildfire can damage roads, power lines, and water systems, complicating evacuation efforts and hindering emergency response.

3.3.7.7.3 Environmental

Wildfires can have profound and lasting impacts on the environment, affecting air quality, water resources, soil integrity, and local ecosystems. Wildfires release large quantities of particulate matter, including PM2.5, which are fine particles that can penetrate deep into the lungs and pose serious health risks. These particles can travel vast distances, leading to air quality deterioration even in areas far from the fire's origin. In New Mexico, wildfires have been a

significant source of air pollution, contributing to elevated levels of particulate matter during active fire periods.

Post-fire runoff can severely affect water bodies by introducing ash, sediment, and chemicals into streams and rivers. This can result in oxygen depletion, toxicity and sedimentation. Fire can also scour the land, destroying vegetation and diminishing the land's ability to absorb rainfall, leading to increased surface runoff and flooding risks. Fire can alter soils, making them more prone to erosion and degrading fertile topsoil.

The immediate aftermath of wildfire can devastate local flora and fauna. It is important to note that since time immemorial, fire has been a keystone environmental process, contributing to ecosystem health. Over time, ecosystems can recover, though the process may take years, depending on the severity of the fire and the resilience of the environment.

3.3.7.7.4 Government Operations

Wildfire can significantly disrupt government operations at all levels. Emergency response services may become overwhelmed or delayed by damaged roads and transportation systems, damaged communication systems, or resource shortages. Government services may be adversely impacted. Recovery efforts require rapid mobilization of funds, personnel, and coordination across multiple agencies, diverting resources from other planned initiatives. Additionally, governments often face increased demand for public assistance, shelter services, infrastructure repair, and environmental cleanup, all of which can strain budgets and operational capacity for months or even years. Suppression efforts for large wildfires can cost millions of dollars, and governments often bear the financial burden of restoring damaged infrastructure.

3.4 HAZARD RANKING

To support a consistent, transparent, and replicable evaluation of hazard risk, Doña Ana County utilized a scoring tool designed to numerically assess the relative risk of each identified hazard. This tool applies a multi-factor scoring approach that considers various aspects of potential hazard impact. The total score for each hazard is used to assign an overall qualitative ranking—Minimal, Moderate, Significant, or Extreme—which informs prioritization in the hazard mitigation strategy.

3.4.1 Hazard Scoring

Each hazard is scored across six categories, as shown in Table 41.

Table 41: Hazard scoring categories

Category	Description	Values
Probability of occurrence	How likely is the hazard to occur, based on historical frequency, trends, and anticipated future changes.	1 = Very unlikely 2 = Unlikely 3 = Likely 4 = Very likely

Category	Description	Values
Population impact	The anticipated impact on human life and safety.	1 = Negligible 2 = Limited 3 = Large 4 = Majority
Property damage	The expected level of damage to structures and physical assets.	1 = Insignificant 2 = Limited 3 = Significant 4 = Catastrophic
Economic disruption	The degree to which the hazard would affect businesses, employment, or the local economy.	1 = Insignificant 2 = Limited 3 = Significant 4 = Catastrophic
Community disruption	The expected effect on continuity of operations, access to critical services, and day-to-day functioning.	1 = Insignificant 2 = Limited 3 = Significant 4 = Catastrophic
Environmental consequences	The extent to which the natural environment may be damaged or altered.	1 = Insignificant 2 = Limited 3 = Significant 4 = Catastrophic

Each of these six categories is scored individually for every hazard, and the values are then summed to calculate a Total Risk Score. Based on the total score, each hazard is assigned a qualitative ranking:

- Minimal: 0–5
- Moderate: 6–10
- Significant: 11–16
- Extreme: 17–24

This structured approach ensures that risk ranking is not only data-driven but also reflects both technical analysis and local insights. The outcome of this process helps prioritize hazards for deeper analysis in the HIRA and informs the development of targeted mitigation strategies in Section 4.

3.4.2 Jurisdictional Hazard Rankings

To reflect localized risk across the planning area, each participating jurisdiction was asked to independently assess and rank hazards using the standardized hazard ranking tool described in the previous section. While all jurisdictions considered the same set of hazards, the results vary based on local conditions, past experiences, and community priorities. This section presents the

hazard rankings submitted by each jurisdiction, providing insight into how risk is perceived and prioritized at the local level. These localized rankings serve as a foundation for the development of jurisdiction-specific mitigation actions in Section 4. Table 42 shows hazard rankings by community.

Table 42: Jurisdictional hazard rankings

	Dam Failure	Drought	Extreme Temperatures	Flooding	Severe Wind (including Dust Storm)	Thunderstorms (Lightning and Hail)	Wildfire
Doña Ana County	MOD	MOD	MOD	SIG	SIG	MOD	SIG
City of Anthony	SIG	SIG	SIG	SIG	EXT	SIG	MOD
City of Las Cruces	EXT	EXT	EXT	EXT	EXT	SIG	SIG
City of Sunland Park	MOD	SIG	SIG	EXT	EXT	SIG	SIG
Elephant Butte Irrigation District	EXT	EXT	SIG	SIG	SIG	SIG	SIG
New Mexico State University	MOD	MOD	SIG	SIG	SIG	MOD	SIG
Town of Mesilla	MOD	MOD	MOD	SIG	MOD	MOD	MOD
Village of Hatch	EXT	EXT	EXT	EXT	EXT	EXT	EXT

MIN – Minimal / MOD – Moderate / SIG – Significant / EXT - Extensive

2021 Mitigation Plan Success Story

Elephant Butte Irrigation District
Groundwater Recharge Opportunities

The District successfully implemented a forward-thinking initiative to monitor and manage flood flows by installing radio telemetry units (RTUs) to track water entering potential drainage sites. These efforts, combined with funding from the Drought Resiliency Implementation Grant, enabled the installation of weather and rain stations, improvements to the Hayner Cable for river flow tracking, and testing of turnout automation for emergency flood evacuation. Together, these advancements have strengthened the District's ability to recharge aquifers, support irrigation, and respond more effectively to flood events.



4 HAZARD MITIGATION STRATEGY

4.1 HAZARD MITIGATION STRATEGY OVERVIEW

In developing and refining the mitigation strategy, participating jurisdictions considered current priorities (political, financial, and operational) alongside the risk and capability data gathered during the planning process. While capacity to engage varied across the planning area, the LPT emphasized the importance of realistic, high-impact mitigation actions that align with available resources and community values. Anticipated changes in federal funding, heightened awareness of local hazard risks, and a desire for a more actionable, easy-to-use plan also shaped the approach. As a result, the updated mitigation strategy reflects a shift toward more focused, feasible actions designed to support near-term implementation and broader integration with other local planning and investment efforts.

The hazard mitigation strategy outlined in this section builds on the goals established in Section 1.2 and is informed by the broader context provided in the Community Profile and Capabilities (Section 2), and the Hazard Identification and Risk Assessment (Section 3). Together, these elements provide a comprehensive understanding of who and what is at risk in Doña Ana County, as well as the existing capacity to implement risk reduction measures.

This section translates that understanding into a set of actionable strategies designed to reduce the long-term impacts of natural hazards. It includes a review of past mitigation progress, current gaps and opportunities, and a jurisdiction-specific list of proposed actions developed in collaboration with local stakeholders. These strategies aim to reduce vulnerability, strengthen local capabilities, and support an equitable and risk-informed approach to resilience across the planning area.

4.2 PRIOR MITIGATION ACTIONS

4.2.1 Mitigation Action Reporting

As part of this plan update, participating jurisdictions were asked to review the mitigation actions included in the 2021 AHMP and report on the status of each. This review serves as a checkpoint to assess progress, identify implementation challenges, and inform the development and prioritization of updated mitigation strategies.

Jurisdictions provided updated status information through the MPT, which included standardized categories to ensure consistency in reporting. Each action from the 2021 plan was classified as one of the following:

- **Completed:** The action has been fully implemented as originally described.
- **In progress:** Work on the action is currently underway but has not yet been completed.
- **Delayed:** The action was initiated but has not progressed as planned due to specific barriers (e.g., funding limitations, staffing constraints, permitting delays, or shifts in jurisdictional priorities).

- **Canceled:** The action was formally discontinued or is no longer relevant or feasible.
- **Not started:** No substantive progress has been made toward implementation.

In some cases, jurisdictions chose to revise or expand previously identified actions based on new information or changing conditions. Actions that remain relevant but have not yet been completed may be carried forward into the 2026 plan update, either in their original form or with modifications to better reflect current needs and capabilities.

4.2.2 Completed and Cancelled Actions

This section concentrates on completed and cancelled mitigation actions, providing a targeted snapshot of progress from the 2021 plan. Actions that remain relevant but were not completed (whether they are in progress, delayed, or not yet started) are included in each jurisdiction's updated mitigation strategy. These carried-over actions are presented in Section 4.3.

The tables below summarize completed and cancelled actions from the 2021 AHMP.

- For completed actions, jurisdictions were asked to briefly describe the benefits realized as a result of implementation. Examples include reduced risk to specific assets, improved community awareness, enhanced coordination, regulatory improvements, or successful grant funding.
- For cancelled actions, jurisdictions provided a short explanation for discontinuation. Common reasons included shifts in community priorities, lack of funding, jurisdictional restructuring, staff turnover, or a reassessment of feasibility based on current conditions.

Table 43: 2021 AHMP Completed Mitigation Actions

Jurisdiction	Action	Observed Benefits
Dona Ana County	Evaluate, update and adopt Building Codes	Building Codes adopted in 2021. County will continue to evaluate and update as needed.
Dona Ana County	Wildfire Education and Public Outreach	The county has a program for regular public outreach, including sharing information at community events.
City of Anthony	Assist Doña Ana County To Improve Emergency Communications County-Wide	By collaborating with the Doña Ana County to improve emergency communications and hazard event warning systems, the City of Anthony gains access to a more robust and integrated network of resources. These improvements lead to faster, more reliable dissemination of warnings and information during emergencies, ultimately reducing risk to life and property.

Jurisdiction	Action	Observed Benefits
City of Las Cruces	Building Code Review; Update and/or Adoption	By reviewing and updating local building codes to align with current New Mexico state regulations and FEMA's hazard-resistant standards, the City of Las Cruces enhances the safety and durability of structures against region-specific threats such as wildland-urban interface fires, and flash flooding. These updates not only reduce potential property damage and loss of life during disasters but also lower long-term recovery costs and improve eligibility for federal mitigation funding.
Elephant Butte Irrigation District	Rodey Lateral Improvement	EBID has completed our portion of the project. The Village of Hatch Dam is still in process with the Flood Commission.
Elephant Butte Irrigation District	Groundwater Recharge Opportunities	Completed the weather stations, Hayner Cable project and the Argueas lateral has been set up for automation, which is scheduled be finalized August/September 2025.
Elephant Butte Irrigation District	Drought-Related Public Education and Outreach	Education is an ongoing process. EBID works with the City of Las Cruces for their water day, NMSU for their Ag day, and LCPS, Hatch and Gasdsen school districts. The program is now in place and implemented annually.
Elephant Butte Irrigation District	Flood Control Dam Inspections	This is an annual ongoing process. It has been completed for 2025: vegetation, rodent and clearing the pooling areas. This process is in place and will continue annually to ensure maintenance is completed.
Village of Hatch	Village of Hatch Drainage Master Plan	The development of a comprehensive Drainage Master Plan to address current and future runoff challenges will improve flood management, protect critical infrastructure, and reduce risks to life and property across the community.
Village of Hatch	Assist Doña Ana County to Improve Emergency Communications County-Wide	By partnering with Doña Ana County to enhance emergency communications and hazard warning systems, the Village of Hatch will strengthen its ability to share timely, reliable information during crises.

Table 44: 2021 AHMP Cancelled Mitigation Actions

Jurisdiction	Action	Reason for Cancellation
Dona Ana County	Upgrade Flood Protection Capabilities of the Rio Grande Canalization Project	No progress of note
Dona Ana County	Countywide Flood Warning and Response System	No progress of note
Dona Ana County	Upgrade Flood Protection Capabilities of the Rio Grande Canalization Project	No progress of note
Dona Ana County	Install Staff Rain Gauges at Low Water Crossings and Arroyos Throughout the County	Revised into new action

Jurisdiction	Action	Reason for Cancellation
Dona Ana County	Public Education and Notification Regarding Severe Weather	Revised into new action
Dona Ana County	Drought-Related Public Education and Outreach	Revised into new action
Dona Ana County	Defensible Space Practices	Will be part of county CWPP development, if funding awarded

4.3 NEW AND CONTINUING ACTIONS

4.3.1 Mitigation Strategy Development

Development of the mitigation strategy was a collaborative, jurisdiction-led process designed to ensure that proposed actions are locally relevant, technically sound, and aligned with the goals of the 2026 Doña Ana County All-Hazards Mitigation Plan. To support this, the planning team facilitated three in-person workshops in geographically diverse locations (Hatch, Las Cruces, and Chaparral) to increase accessibility for participating jurisdictions and their partners.

Jurisdictions were strongly encouraged to bring community partners who play a role in mitigation planning and implementation such as public works staff, community development representatives, emergency responders, and others with insight into local infrastructure and priorities.

Each meeting began with a brief review of core hazard mitigation concepts and an overview of the planning process to date. Participants received printed handouts with sample mitigation actions tailored to hazards relevant to Doña Ana County communities. These examples were curated to reflect both regional risks and culturally appropriate approaches to mitigation.

Participants used structured worksheets to begin drafting mitigation strategies, supported by contracted subject matter experts from the project team. Following the workshops, completed worksheets were returned to jurisdiction representatives for further evaluation, refinement, and prioritization. These working drafts formed the foundation for the final set of mitigation actions presented in the strategy.

4.3.2 Mitigation Strategy Elements

Each participating jurisdiction is required to develop a set of mitigation actions that reduce long-term risk to people, property, and critical assets. In accordance with 44 CFR § 201.6(c)(3) and FEMA's 2025 *Local Mitigation Planning Policy Guide*, the mitigation strategy must include the following:

- At least one mitigation action per hazard, for each jurisdiction participating in the plan.

- At least one action that addresses NFIP participation and flood risk, for jurisdictions where NFIP coverage is available.
- Identification of specific actions designed to reduce or eliminate risks from identified hazards.
- Mitigation goals to guide development of these actions (see Section 1.2).
- A prioritization method that explains how cost-benefit, technical feasibility, and community priorities were considered.
- Jurisdiction-specific actions for each participating entity, especially in multi-jurisdictional plans.

Each action must also identify:

The responsible agency or lead entity.	**Potential funding sources.**	**An estimated timeframe for implementation.**

FEMA encourages inclusion of a wide range of action types to reflect the full spectrum of mitigation approaches. Best practices include selecting actions that:

- Align with capability gaps identified in the Capability Assessment.
- Address high-risk hazards identified in the HIRA.
- Include a mix of plans, policies, projects, outreach, and partnerships (not just infrastructure).
- Reflect equity considerations, such as targeting vulnerable populations or incorporating public health co-benefits.
- Support continuity of lifelines, build on existing local planning efforts, and position communities to take advantage of federal or state funding opportunities.

Jurisdictions were asked to consider mitigation actions that align with their existing capabilities, as documented in Section 2.9, and to identify opportunities to strengthen those capabilities where needed. These considerations (particularly in areas such as planning, regulatory frameworks, and administrative capacity) helped shape the development of new and continuing mitigation actions.

4.3.3 Action Prioritization

FEMA requires that each mitigation action included in the strategy be prioritized using a defined method. Prioritization helps jurisdictions focus on the most impactful, feasible, and locally supported actions, ensuring that limited resources are directed toward high-value mitigation efforts.

To support this requirement, each participating jurisdiction utilized the MPT which includes a built-in prioritization framework. Jurisdictions were asked to assess each proposed mitigation action across the criteria displayed in Table 45.

Table 45: Action prioritization approach

Criteria	Description	Ranking
Risk reduction impact	The degree to which the action reduces vulnerability or exposure to known hazards	1 = No impact 2 = Some impact 3 = Moderate impact 4 = Substantial impact 5 = Significant impact
Funding availability	The likelihood that funding can be secured to support the action	1 = No funding identified 2 = Funding identified, not secured 3 = Funding secured
Cost-effectiveness	Whether the expected benefits justify the anticipated costs	1 = Low cost/benefit ratio 2 = Moderate cost/benefit ratio 3 = High cost/benefit ratio
Community leadership and support	The level of political and public buy-in for the action	1 = No known support 2 = Some support 3 = Moderate support 4 = High support
Co-benefits	Whether the action supports other community goals (e.g., health, environment)	1 = No know co-benefits 2 = Some co-benefits 3 = Multiple co-benefits

Each criterion was scored numerically, and the total possible score ranged from 5 to 18. Higher scores indicate a higher priority based on a combination of impact, feasibility, and support. This scoring method provided a transparent, consistent starting point for evaluating the relative priority of each action. Based on this scoring method, project priority is assigned as shown below:

- Score 5 - 9: Low Priority
- Score 10 – 14: Medium Priority
- Score 15 – 18: High Priority

However, jurisdictions were also encouraged to apply their own judgment and adjust scores or rankings as needed to reflect local priorities, values, and capacity. These overrides allowed the prioritization process to remain flexible and context sensitive.

The final prioritizations presented in Section 4.4 represent a combination of standardized scoring and jurisdictional discretion, ensuring that the resulting strategy is both technically sound and locally grounded.

4.3.4 Actions by Hazard

Table 46 shows the number of actions in the mitigation strategy for each hazard assessed in the plan.

Table 46: Number of actions by hazard

Hazard	Continuing Actions	New Actions
All Hazard	2	26
Dam Failure	5	4
Drought	5	4
Extreme Temperatures	1	8
Flooding	19	35
Severe Wind (Including Dust Storms)	0	5
Thunderstorms	3	8
Wildfire	5	4

4.3.5 Updated Hazard Mitigation Strategy

The following section presents the updated mitigation strategy for each participating jurisdiction in the 2026 MJHMP. Each jurisdiction collaborated with the planning team to review past actions, assess local risk and capacity, and develop a tailored set of mitigation actions aligned with FEMA guidance and community priorities, to form a mitigation strategy.

The strategy for each jurisdiction is presented in a standardized table format that captures both the technical and practical details needed to guide future implementation and funding efforts. Each mitigation action is described using the following fields:

- Action ID
- Mitigation Action Name
- Mitigation Action Description
- Implementation Status (e.g., new, carried forward from 2021 AHMP)
- Hazards Addressed
- Primary Goal Addressed
- Primary Associated Lifeline
- Lead Agency/Department
- Support Agencies/Departments
- Estimated Cost
- Potential Funding Source(s)
- Projected Timeline
- Additional Notes

These action tables are designed to support tracking and future updates, and to position jurisdictions for future mitigation funding opportunities through FEMA and other sources. Where appropriate, notes will reflect how the action supports or builds on existing capabilities and planning mechanisms, addresses known gaps identified through the capability assessment, or demonstrates alignment with other local plans.

4.3.5.1 Basic Information*

Jurisdiction	Action	Action Status	Mitigation Action Name	Action Description	Action Benefits	FEMA Community Lifeline Alignment
Dona Ana County	A1	New	All Hazard Public Education Program	Implement an all-hazard public education program using posters, brochures, infographics, and other outreach materials in English and Spanish to inform residents about risks, hazard timing, and mitigation practices.	Builds public knowledge, promotes individual and community preparedness, supports risk reduction behaviors, and enhances overall resilience across Doña Ana County.	Safety and Security
Dona Ana County	A2	New	Public Works Infrastructure Asset Inventory and Vulnerability Assessment	Identify and inventory all operational assets owned, operated, and maintained by Doña Ana County (including dams, channels, culverts, roads, storm drains, wastewater facilities, and related systems) and develop metrics to assess functionality, maintenance needs, and hazard vulnerability.	Clarifies vulnerabilities across county-owned infrastructure, supports proactive maintenance and protection measures, ensures critical assets remain operational, and reduces damage and service disruptions during hazard events.	Transportation; Water Systems
Dona Ana County	A3	New	Critical Infrastructure Prioritization and Upgrade Strategy	Rank and replace aging operational assets owned, operated, and maintained by Doña Ana County based on assessment metrics to prioritize removal, replacement, or upgrades of critical infrastructure.	Ensures resources are directed to the most critical infrastructure needs, prolongs asset functionality, reduces risk of failure during hazard events, and strengthens overall community resilience.	Safety and Security; Communications; Transportation; Water Systems
Dona Ana County	A4	New	Dam Breach Analysis and Inundation Mapping	Complete dam breach analyses and inundation mapping for Price Woodward Dam, Little Halla Wilson Dam, Lauson Dam, and Breedlove Dam.	Identifies downstream vulnerabilities, informs residents and businesses of flood risk, and supports preparedness, emergency planning, and mitigation measures to reduce potential impacts.	Safety and Security; Water Systems
Dona Ana County	A5	New	Emergency Action Plan Development	Complete EAPs for Price Woodward Dam, Little Halla Wilson Dam, Lauson Dam, and Breedlove Dam using dam breach analysis data to define emergency protocols, notification trees, and activation triggers.	Improves preparedness for potential dam failures, establishes clear communication and response procedures, and enhances public safety for downstream communities.	Safety and Security; Water Systems

Jurisdiction	Action	Action Status	Mitigation Action Name	Action Description	Action Benefits	FEMA Community Lifeline Alignment
Dona Ana County	A6	New	Chaparral Flood Mitigation Implementation	Implement flooding mitigation projects in Chaparral (including the Nike Channel, Missile Channel, Salsa Lake, and Amparo Channel) based on conceptual designs and completed hydrology from the 2021 Chaparral Drainage Master Plan.	Provides significant flooding relief for Chaparral, reduces property damage, enhances public safety, and supports long-term community resilience.	Safety and Security; Water Systems
Dona Ana County	A7	New	Rincon Flood Mitigation Infrastructure Implementation	Implement flooding mitigation projects in Rincon by conducting hydrology and watershed analyses to identify suitable drainage infrastructure locations, followed by design and construction.	Addresses the lack of master planning, reduces flood vulnerability, protects property and infrastructure, and enhances community safety and resilience.	Safety and Security; Water Systems
Dona Ana County	A8	New	Vado Flood Mitigation Infrastructure Implementation	Implement flooding mitigation projects in Vado (including capital projects conceptually designed in the 2019 Vado Drainage Master Plan with completed hydrology) through design and construction.	Provides flooding relief for Vado, reduces property damage, improves public safety, and supports long-term community resilience.	Safety and Security; Water Systems
Dona Ana County	A9	New	Expansion of Doña Ana County Flood Warning System	Implement and expand the Doña Ana County Flood Commission's flood warning system by adding new weather stations at over 40 identified locations from the 2024 master plan to close coverage gaps and improve monitoring.	Provides more complete flood data, enhances situational awareness for emergency responders and stakeholders, improves timeliness of warnings, and strengthens public safety during peak flooding seasons.	Safety and Security; Communications
Dona Ana County	A10	New	Develop a County-Wide Dam Safety Program	Develop a countywide dam safety program by compiling a detailed inventory of all dams in Doña Ana County, identifying high-risk structures, and creating a centralized database. The program will also pursue funding for inspections, dam failure analyses, and development of EAPs where absent.	Improves understanding of dam-related risks, enhances public safety, supports compliance with state and federal requirements, and provides a framework for proactive maintenance and emergency preparedness.	Safety and Security

Jurisdiction	Action	Action Status	Mitigation Action Name	Action Description	Action Benefits	FEMA Community Lifeline Alignment
Dona Ana County	A11	New	Centralized Bilingual Public Hazard Education Toolkit	Create and maintain a centralized public hazard education toolkit for use across jurisdictions, with outreach materials on all hazards. Materials will be translated into Spanish and tailored for diverse audiences.	Strengthens public awareness, improves risk communication, supports equitable access to preparedness information, and promotes consistent messaging across jurisdictions.	Safety and Security
Dona Ana County	A12	New	Bilingual Public Awareness Campaign	Launch a coordinated hazard signage and public information campaign for high-risk zones, such as flood-prone roadways and dust storm areas. Signage will be installed in English and Spanish and paired with broader public messaging.	Increases situational awareness, supports safe evacuation planning, improves public understanding of local hazards, and enhances community safety.	Safety and Security
Dona Ana County	A13	New	Countywide GIS Database for Repetitive Problem Areas	Create and maintain a countywide, GIS-enabled database of repetitive problem areas reported by jurisdictions, with standardized reporting fields.	Centralizes hazard hot spots, supports data-driven project prioritization, reveals cross-jurisdiction clusters, streamlines grant applications, and improves long-term tracking of conditions and mitigation outcomes.	Safety and Security
Dona Ana County	A14	New	Enhanced Emergency Alerting and Public Messaging System	Strengthen emergency public messaging across all jurisdictions by enhancing IPAWS and integrated alerting systems. Actions include updating and standardizing hazard-specific templates, training authorized personnel, expanding language access, and increasing public awareness of alert platforms such as AlertNM, WEA, and NOAA Weather Radio.	Ensures consistent and timely alerts, improves message clarity and accessibility, overcomes technical and staffing barriers, and enhances life safety through faster, more reliable public warnings during emergencies.	Safety and Security; Communications
Dona Ana County	A15	New	Drought Resistant Landscape Regulation	Adopt and enforce drought-resistant landscaping regulations to promote water-efficient practices and reduce reliance on high-demand irrigation.	Conserves limited water supplies, lowers maintenance costs, and strengthens community resilience to prolonged drought conditions.	Safety and Security; Water Systems

Jurisdiction	Action	Action Status	Mitigation Action Name	Action Description	Action Benefits	FEMA Community Lifeline Alignment
Dona Ana County	A16	New	Extreme Temperature Resilience Initiative	Developing and activating Cooling and Warming Center protocols including targeted outreach for at-risk populations such as elderly, outdoor workers, and residents without access to adequate cooling/heating. during extreme temperature periods	Enhances access to safe indoor environments during dangerous temperature extremes. Improves community preparedness and response capacity for prolonged heatwaves	Food, Water & Shelter
Dona Ana County	A17	New	Building Code Modernization Project	Evaluate existing building codes and update to the latest International Building Code (IBC) series to ensure consistency across county-owned buildings and compliance with state law.	Improves structural safety, enhances resilience to severe wind hazards, and ensures uniform life-safety protections through modern construction standards.	Safety and Security
Dona Ana County	A18	New	Severe Thunderstorm Impact Reduction Program	Develop and disseminate public lightning safety protocols, including shelter-in-place guidance and outdoor activity suspension rules aligned with NWS. Conduct outreach to homeowners and businesses on retrofitting for hail-resistant infrastructure upgrades, insurance coverage, and protective actions.	Reduces risk of injury or death from lightning, including during high-intensity lightning events. Minimizes damage to structures and vehicles from hail impacts across the TORRO intensity range.	Safety & Security
Dona Ana County	A19	New	Wildland–Urban Interface Risk Reduction	Promote defensible space practices and Firewise Communities measures in wildland–urban interface areas of county-owned buildings to reduce structural ignitability and create protective buffers.	Slows wildfire spread, protects county buildings and critical infrastructure, and enhances community safety in high-risk interface zones.	Safety and Security
City of Anthony	B1	Carryover	Stormwater Master Plan Implementation	Implement at least one priority drainage improvement project.	Reduces localized flooding, protects property, improves water quality, and supports climate resilience and future development.	Safety and Security; Water Systems
City of Anthony	B2	Carryover	NFIP Enrollment and Floodplain Management Alignment	Join the NFIP to reduce community vulnerability to flood damage and align with federal floodplain management standards.	Enhances financial protection for residents, expands eligibility for FEMA mitigation grants, and encourages sustainable, resilient development practices.	Safety and Security; Water Systems

Jurisdiction	Action	Action Status	Mitigation Action Name	Action Description	Action Benefits	FEMA Community Lifeline Alignment
City of Anthony	B3	Carryover	Building Code Analysis	Conduct a review of existing building codes and update or adopt new standards to strengthen resilience against natural hazards.	Improves structural resilience, enhances public safety, lowers long-term disaster recovery costs, and ensures alignment with state and federal mitigation standards.	Safety and Security
City of Anthony	B4	New	Comprehensive/Master Land Use Plan Development	Develop a comprehensive land use plan to guide future growth and development away from hazard-prone areas.	Reduces exposure to natural hazards, promotes safe and sustainable development, and strengthens long-term community resilience and economic stability.	Safety and Security; Food, Hydration, Shelter; Health and Medical; Energy; Communications; Transportation; Hazardous Materials; Water Systems
City of Anthony	B5	Carryover	Defensible Space Practices for Wildfire Mitigation	Implement defensible space practices around homes, facilities, and infrastructure to reduce wildfire risk and improve emergency access.	Protects lives and property, enhances emergency response access, and lowers wildfire suppression and recovery costs.	Safety and Security
City of Anthony	B6	Carryover	Enhancing Emergency Communications Infrastructure	Assist Doña Ana County in upgrading and expanding countywide emergency communication systems to ensure reliable information sharing during disasters.	Reduces response times, improves situational awareness, and strengthens public safety across the region.	Safety and Security; Communications
City of Anthony	B7	Carryover	County-Wide Flood Warning and Response System	Assist Doña Ana County in establishing a countywide flood warning and response system to provide timely alerts and support efficient evacuations in flood-prone areas.	Reduces flood-related injuries and property damage, improves evacuation efficiency, and strengthens overall community resilience.	Safety and Security; ; Food, Hydration, Shelter; Communications
City of Anthony	B8	Carryover	Flood Retarding Structure EAP Development	Assist Doña Ana County in developing EAPs for flood retarding structures to address aging or inadequately maintained dams.	Enhances public safety, reduces municipal liability, and ensures compliance with state and federal dam safety regulations.	Safety and Security
City of Anthony	B9	Carryover	Drought Related Public Education and Outreach	Develop and deliver public education and outreach programs to promote water conservation and preparedness for drought conditions.	Fosters community engagement, encourages sustainable water use, and reduces vulnerability to prolonged drought.	Safety and Security

Jurisdiction	Action	Action Status	Mitigation Action Name	Action Description	Action Benefits	FEMA Community Lifeline Alignment
City of Anthony	B10	New	Centralized Bilingual Public Hazard Education Toolkit	Assist Doña Ana County in the creation and maintenance of a centralized public hazard education toolkit for use across jurisdictions, with outreach materials on all hazards. Materials will be translated into Spanish and tailored for diverse audiences.	Strengthens public awareness, improves risk communication, supports equitable access to preparedness information, and promotes consistent messaging across jurisdictions.	Safety and Security
City of Anthony	B11	New	Bilingual Public Awareness Campaign	Assist Doña Ana County in the creation and maintenance of the launch of a coordinated hazard signage and public information campaign for high-risk zones, such as flood-prone roadways and dust storm areas. Signage will be installed in English and Spanish and paired with broader public messaging.	Increases situational awareness, supports safe evacuation planning, improves public understanding of local hazards, and enhances community safety.	Safety and Security
City of Anthony	B12	New	Countywide GIS Database for Repetitive Problem Areas	Assist Doña Ana County in the creation and maintenance of a countywide, GIS-enabled database of repetitive problem areas reported by jurisdictions, with standardized reporting fields.	Centralizes hazard hot spots, supports data-driven project prioritization, reveals cross-jurisdiction clusters, streamlines grant applications, and improves long-term tracking of conditions and mitigation outcomes.	Safety and Security; Food, Hydration, Shelter; Health and Medical; Energy; Communications; Transportation; Hazardous Materials; Water Systems
City of Anthony	B13	New	Enhanced Emergency Alerting and Public Messaging System	Assist Doña Ana County in strengthening emergency public messaging across all jurisdictions by enhancing IPAWS and integrated alerting systems. Actions include updating and standardizing hazard-specific templates, training authorized personnel, expanding language access, and increasing public awareness of alert platforms such as AlertNM, WEA, and NOAA Weather Radio.	Ensures consistent and timely alerts, improves message clarity and accessibility, overcomes technical and staffing barriers, and enhances life safety through faster, more reliable public warnings during emergencies.	Safety and Security; Communications

Jurisdiction	Action	Action Status	Mitigation Action Name	Action Description	Action Benefits	FEMA Community Lifeline Alignment
City of Anthony	B14	New	Extreme Temperature Resilience Initiative	Developing and activating Cooling and Warming Center protocols including targeted outreach for at-risk populations such as elderly, outdoor workers, and residents without access to adequate cooling/heating. during extreme temperature periods	Enhances access to safe indoor environments during dangerous temperature extremes. Improves community preparedness and response capacity for prolonged heatwaves	Food, Water & Shelter
City of Anthony	B15	New	Severe Thunderstorm Impact Reduction Program	Developing and disseminating public lightning safety protocols, including shelter-in-place guidance and outdoor activity suspension rules aligned with NWS. Conduct outreach to homeowners and businesses on retrofitting for hail-resistant infrastructure upgrades, insurance coverage, and protective actions.	Reduces risk of injury or death from lightning, including during high-intensity lightning events. Minimizes damage to structures and vehicles from hail impacts across the TORRO intensity range.	Safety & Security
City of Las Cruces	C1	Carryover	Countywide Flood Risk and NFIP Awareness Workshops	Sponsor countywide workshops for residents, professionals, and officials to increase awareness of flood risks and the benefits of the NFIP.	Improves understanding of flood risks, expands NFIP participation, strengthens financial protection, and enhances overall community resilience to flood events.	Safety and Security
City of Las Cruces	C2	Carryover	Become a Storm-Ready Community.	Pursue National Weather Service designation as a StormReady community by strengthening local preparedness protocols for flooding and severe weather.	Improves disaster readiness, enhances public safety, supports CRS credit under FEMA's NFIP, and increases eligibility for resilience incentives.	Safety and Security
City of Las Cruces	C3	Carryover	Water Conservation Program Education and Outreach.	Conduct a countywide public education campaign to raise awareness of water conservation practices and promote sustainable water use.	Increases public knowledge, encourages efficient water use, and reduces community vulnerability to drought and long-term water scarcity.	Safety and Security; Water Systems
City of Las Cruces	C4	New	Update High Risk Dams EAP / Inundation Mapping	Assist Doña Ana County in updating EAPs and inundation maps for high-hazard potential dams, including hydraulic modeling, GIS mapping, and coordination with emergency responders.	Strengthens emergency preparedness, ensures compliance with state and federal dam safety regulations, improves public safety, and supports integration with hazard mitigation and emergency notification systems.	Safety and Security; Food, Hydration, Shelter; Health and Medical; Energy; Communications; Transportation; Hazardous Materials; Water Systems

Jurisdiction	Action	Action Status	Mitigation Action Name	Action Description	Action Benefits	FEMA Community Lifeline Alignment
City of Las Cruces	C5	Carryover	Expand Weather Stations and Environmental Sensor Networks	Upgrade and expand weather stations and environmental sensor networks in hazard-prone areas while building redundancy into local alert systems to improve emergency communication and forecasting.	Enhances real-time situational awareness, improves forecasting accuracy, ensures inclusive multilingual and ADA-compliant emergency alerts, and strengthens public safety during severe weather and hazard events.	Safety and Security
City of Las Cruces	C6	New	Real-Time Flash Flood Warning System Integration	Integrate local rain and stream sensor data with automated public alert systems to provide real-time flash flood warnings in high-risk corridors such as Triviz, Lohman, and Amador.	Improves early warning capabilities, enhances public safety in vulnerable urban areas, and reduces the risk of injury and property damage from sudden flash flood events.	Safety and Security; Communications
City of Las Cruces	C7	New	Inclusive Emergency Information Access	Expand language access and ADA-compliant formats for hazard materials, evacuation maps, and alert systems to ensure equitable access to emergency information.	Improves disaster preparedness for non-English speakers and individuals with visual or hearing impairments, increases inclusivity, and strengthens communitywide resilience and safety.	Safety and Security
City of Las Cruces	C8	New	Enhance Arroyo Safety and Sediment Control	Conduct comprehensive mapping and management of arroyo corridors and alluvial fans, including sediment barrier installations, maintenance schedules, and public outreach on arroyo hazards.	Reduces erosion, sedimentation, and flash flooding risks; protects infrastructure and stream crossings; and raises public awareness of arroyo safety.	Safety and Security; Transportation; Water Systems
City of Las Cruces	C9	New	Regional Groundwater Recharge Zone Development	Develop regional groundwater recharge zones by retrofitting detention basins and public lands near arroyos for stormwater capture, in coordination with NMSU, EBID, and the Water Utility.	Slows stormwater runoff, reduces erosion, enhances aquifer recharge, and strengthens long-term drought resilience.	Safety and Security; Water Systems
City of Las Cruces	C10	New	Mesa Grande Flood Resilient Expansion	Integrate flood resilience into the Mesa Grande Drive expansion by constructing drainage structures, detention basins, and arroyo crossings designed to handle 100-year storm events.	Reduces downstream flood risk, improves roadway safety, stabilizes arroyo channels, and ensures infrastructure can withstand severe flood events.	Safety and Security; Transportation; Water Systems

Jurisdiction	Action	Action Status	Mitigation Action Name	Action Description	Action Benefits	FEMA Community Lifeline Alignment
City of Las Cruces	C11	New	LiDAR-Based Urban Flood Risk Mapping	Develop updated flash flood hazard maps and a drainage deficiency inventory using LiDAR terrain data, storm drain capacity, and FEMA flood hazard boundaries to identify vulnerable urban areas.	Improves understanding of urban flood risk, guides capital improvement prioritization, strengthens flood response planning, and supports CRS credit documentation.	Safety and Security; Food, Hydration, Shelter; Health and Medical; Energy; Communications; Transportation; Hazardous Materials; Water Systems
City of Las Cruces	C12	New	Green Infrastructure Pilots for Floodwater Capture	Implement green infrastructure pilot projects at key Las Cruces intersections and parkways—such as Solano/University, Amador corridor, and Downtown—using bioswales, rain gardens, and permeable pavement to capture and manage floodwater.	Reduces flash flood runoff, eases storm drain overload, mitigates urban heat island effects, and enhances environmental resilience in high-traffic areas.	Safety and Security; Transportation
City of Las Cruces	C13	New	Enact Flood Control Authority	Activate the Las Cruces Metropolitan Arroyo Flood Control Authority (LCMAFCA) under the Las Cruces Arroyo Flood Control Act (§72-17 NMSA 1978) to construct, maintain, and finance regional flood control infrastructure for high-risk arroyos such as Branigan, Alameda, and Sand Hill.	Expands regional capacity to address drainage deficiencies, improves coordination on flood control infrastructure, and reduces flood risks through dedicated governance, funding, and long-term planning.	Safety and Security; Transportation; Water Systems
City of Las Cruces	C14	New	Public Outreach for Flood Authority	Develop and implement a public education and engagement campaign to build awareness and support for activating the Las Cruces Metropolitan Arroyo Flood Control Authority, using maps, data, and outreach tools to demonstrate its benefits.	Increases public and stakeholder understanding of flood risks, builds support for funding and activation of LCMAFCA, and promotes coordinated regional infrastructure improvements that enhance disaster resilience.	Safety and Security
City of Las Cruces	C15	New	Arroyo Corridor Open Space Acquisition	Acquire and preserve open space along high-risk arroyo corridors—such as Sand Hill, Branigan, and Las Cruces Arroyo—under LCMAFCA authority (§72-17-2(D)) to protect natural floodplain functions and reserve land for future flood control projects.	Reduces flood risk by limiting impervious development, preserves space for detention basins or channel improvements, and provides added community value through greenbelts, trails, and habitat corridors.	Safety and Security; Food, Hydration, Shelter; Health and Medical; Energy; Communications; Transportation; Hazardous Materials; Water Systems

Jurisdiction	Action	Action Status	Mitigation Action Name	Action Description	Action Benefits	FEMA Community Lifeline Alignment
City of Las Cruces	C16	New	Centralized Bilingual Hazard Education Toolkit	Assist Doña Ana County in the creation and maintenance of a centralized public hazard education toolkit for use across jurisdictions, with outreach materials on all hazards. Materials will be translated into Spanish and tailored for diverse audiences.	Strengthens public awareness, improves risk communication, supports equitable access to preparedness information, and promotes consistent messaging across jurisdictions.	Safety and Security
City of Las Cruces	C17	New	Bilingual Public Awareness Campaign	Assist Doña Ana County in the creation and maintenance of the launch of a coordinated hazard signage and public information campaign for high-risk zones, such as flood-prone roadways and dust storm areas. Signage will be installed in English and Spanish and paired with broader public messaging.	Increases situational awareness, supports safe evacuation planning, improves public understanding of local hazards, and enhances community safety.	Safety and Security
City of Las Cruces	C18	New	Countywide GIS Database for Repetitive Problem Areas	Assist Doña Ana County in the creation and maintenance of a countywide, GIS-enabled database of repetitive problem areas reported by jurisdictions, with standardized reporting fields.	Centralizes hazard hot spots, supports data-driven project prioritization, reveals cross-jurisdiction clusters, streamlines grant applications, and improves long-term tracking of conditions and mitigation outcomes.	Safety and Security
City of Las Cruces	C19	New	Enhanced Emergency Alerting and Public Messaging System	Assist Doña Ana County in strengthening emergency public messaging across all jurisdictions by enhancing IPAWS and integrated alerting systems. Actions include updating and standardizing hazard-specific templates, training authorized personnel, expanding language access, and increasing public awareness of alert platforms such as AlertNM, WEA, and NOAA Weather Radio.	Ensures consistent and timely alerts, improves message clarity and accessibility, overcomes technical and staffing barriers, and enhances life safety through faster, more reliable public warnings during emergencies.	Safety and Security; Communications

Jurisdiction	Action	Action Status	Mitigation Action Name	Action Description	Action Benefits	FEMA Community Lifeline Alignment
City of Las Cruces	C20	New	Extreme Temperature Resilience Initiative	Developing and activating Cooling and Warming Center protocols including targeted outreach for at-risk populations such as elderly, outdoor workers, and residents without access to adequate cooling/heating. during extreme temperature periods	Enhances access to safe indoor environments during dangerous temperature extremes. Improves community preparedness and response capacity for prolonged heatwaves	Food, Water & Shelter
City of Las Cruces	C21	New	Severe Thunderstorm Impact Reduction Program	Developing and disseminating public lightning safety protocols, including shelter-in-place guidance and outdoor activity suspension rules aligned with NWS. Conduct outreach to homeowners and businesses on retrofitting for hail-resistant infrastructure upgrades, insurance coverage, and protective actions.	Reduces risk of injury or death from lightning, including during high-intensity lightning events. Minimizes damage to structures and vehicles from hail impacts across the TORRO intensity range.	Safety & Security
City of Las Cruces	C22	New	Wildland–Urban Interface Risk Reduction	Promote defensible space practices and Firewise Communities measures in wildland–urban interface areas to reduce structural ignitability and create protective buffers.	Slows wildfire spread, protects homes and critical infrastructure, and enhances community safety in high-risk interface zones.	Safety and Security
City of Las Cruces	C23	New	Building Code Modernization Project	Evaluate existing building codes and update to the latest International Building Code (IBC) series to ensure consistency across communities and compliance with state law.	Improves structural safety, enhances resilience to hazards, and ensures uniform life-safety protections through modern construction standards.	Safety and Security
City of Sunland Park	D1	New	Flood Infrastructure Improvements in Carlos Aguirre	Install underground storm drains, intake and outfall structures, water quality treatment systems, and erosion control measures in flood-prone residential zones of the Carlos Aguirre area.	Reduces localized flooding, protects property, improves water quality, and increases climate resilience and development opportunities.	Safety and Security; Water Systems
City of Sunland Park	D2	New	Edgemont Flood Storage and Recreation Upgrade	Reconstruct and expand stormwater ponds in the Edgemont area to increase storage capacity, stabilize slopes, and add safety, access, and water quality features, while integrating recreational uses.	Reduces flood risk, improves water quality, enhances public safety, and creates multi-purpose recreational spaces that strengthen community resilience.	Safety and Security; Water Systems

Jurisdiction	Action	Action Status	Mitigation Action Name	Action Description	Action Benefits	FEMA Community Lifeline Alignment
City of Sunland Park	D3	New	LID Stormwater Improvements at Municipal Complex	Construct low impact development (LID) conveyance channels and attenuation ponds at the municipal complex, with added slope protection, maintenance access, sediment management, security controls, signage, and water quality enhancements to mitigate flooding.	Reduces downstream flooding, improves water quality, and provides long-term protection for municipal facilities that serve residents across all age groups.	Safety and Security; Water Systems
City of Sunland Park	D4	New	South Anapra Street Drainage Design Improvements	Install underground storm drains, intake and outfall structures, water quality treatment systems, and erosion control measures along South Anapra Street to address chronic flooding.	Reduces recurring flooding, prevents property damage, improves water quality, and enhances public safety and quality of life in adjacent neighborhoods.	Safety and Security; Transportation; Water Systems
City of Sunland Park	D5	New	Riverside Drive Storm Drain Improvements Phase II	Implement underground storm drains, intake and outfall structures, water quality treatment units, and erosion control measures along Riverside Drive to strengthen roadway and neighborhood flood protection.	Protects roadways and adjacent properties from stormwater impacts, improves environmental conditions, and supports long-term climate adaptation and resilience.	Safety and Security; Transportation; Water Systems
City of Sunland Park	D6	New	Centralized Bilingual Public Hazard Education Toolkit	Assist Doña Ana County in the creation and maintenance of a centralized public hazard education toolkit for use across jurisdictions, with outreach materials on all hazards. Materials will be translated into Spanish and tailored for diverse audiences.	Strengthens public awareness, improves risk communication, supports equitable access to preparedness information, and promotes consistent messaging across jurisdictions.	Safety and Security
City of Sunland Park	D7	New	Bilingual Public Awareness Campaign	Assist Doña Ana County in the creation and maintenance of the launch of a coordinated hazard signage and public information campaign for high-risk zones, such as flood-prone roadways and dust storm areas. Signage will be installed in English and Spanish and paired with broader public messaging.	Increases situational awareness, supports safe evacuation planning, improves public understanding of local hazards, and enhances community safety.	Safety and Security

Jurisdiction	Action	Action Status	Mitigation Action Name	Action Description	Action Benefits	FEMA Community Lifeline Alignment
City of Sunland Park	D8	New	Countywide GIS Database for Repetitive Problem Areas	Assist Doña Ana County in the creation and maintenance of a countywide, GIS-enabled database of repetitive problem areas reported by jurisdictions, with standardized reporting fields.	Centralizes hazard hot spots, supports data-driven project prioritization, reveals cross-jurisdiction clusters, streamlines grant applications, and improves long-term tracking of conditions and mitigation outcomes.	Safety and Security
City of Sunland Park	D9	New	Enhanced Emergency Alerting and Public Messaging System	Assist Doña Ana County in strengthening emergency public messaging across all jurisdictions by enhancing IPAWS and integrated alerting systems. Actions include updating and standardizing hazard-specific templates, training authorized personnel, expanding language access, and increasing public awareness of alert platforms such as AlertNM, WEA, and NOAA Weather Radio.	Ensures consistent and timely alerts, improves message clarity and accessibility, overcomes technical and staffing barriers, and enhances life safety through faster, more reliable public warnings during emergencies.	Safety and Security; Communications
City of Sunland Park	D10	Carryover	Construction of Community Public Safety Building	The City will launch the construction of a modern, integrated Public Safety Complex that will co-locate the Fire Department and Police Department to strengthen emergency response capabilities in the northern sector of the City. The facility will include a fully equipped training center and a purpose-built burn building, enabling realistic, hands-on training for fire and rescue personnel. Project planning and design will begin in Year 1, followed by phased construction starting in Year 2. The facility is expected to be fully operational within five years.	This strategic investment is designed to accelerate response times, expand public safety coverage, and enhance operational efficiency.	Safety and Security
City of Sunland Park	D11	New	Flood Retarding Structure EAP Development	Assist the Doña Ana County Flood Commission in developing EAPs for upstream flood retarding structures to strengthen preparedness for potential failures or emergency releases.	Provides clear operational and communication protocols, enables faster and more coordinated protective actions, and reduces downstream flood risk.	Safety and Security; Communications

Jurisdiction	Action	Action Status	Mitigation Action Name	Action Description	Action Benefits	FEMA Community Lifeline Alignment
City of Sunland Park	D12	New	Extreme Temperature Resilience Initiative	Developing and activating Cooling and Warming Center protocols including targeted outreach for at-risk populations such as elderly, outdoor workers, and residents without access to adequate cooling/heating. during extreme temperature periods	Enhances access to safe indoor environments during dangerous temperature extremes. Improves community preparedness and response capacity for prolonged heatwaves	Food, Water & Shelter
City of Sunland Park	D13	New	Severe Thunderstorm Impact Reduction Program	Developing and disseminating public lightning safety protocols, including shelter-in-place guidance and outdoor activity suspension rules aligned with NWS. Conduct outreach to homeowners and businesses on retrofitting for hail-resistant infrastructure upgrades, insurance coverage, and protective actions.	Reduces risk of injury or death from lightning, including during high-intensity lightning events. Minimizes damage to structures and vehicles from hail impacts across the TORRO intensity range.	Safety & Security
City of Sunland Park	D14	New	Wildland–Urban Interface Risk Reduction	Promote defensible space practices and Firewise Communities measures in wildland–urban interface areas to reduce structural ignitability and create protective buffers.	Slows wildfire spread, protects homes and critical infrastructure, and enhances community safety in high-risk interface zones.	Safety and Security
City of Sunland Park	D15	New	Building Code Modernization Project	Evaluate existing building codes and update to the latest International Building Code (IBC) series to ensure consistency across communities and compliance with state law.	Improves structural safety, enhances resilience to hazards, and ensures uniform life-safety protections through modern construction standards.	Safety and Security
City of Sunland Park	D16	New	Drought Resistant Landscape Regulation	Adopt and enforce drought-resistant landscaping regulations to promote water-efficient practices and reduce reliance on high-demand irrigation.	Conserves limited water supplies, lowers maintenance costs, and strengthens community resilience to prolonged drought conditions.	Safety and Security; Water Systems
Elephant Butte Irrigation District	E1	Carryover	Protective Barrier for River Gate Controls	Install fencing around the Mesilla Dam Block House to prevent vandalism and protect gate controls that regulate river flow.	Safeguards dam operations, reduces risk of damage to critical infrastructure, and improves overall dam safety and reliability.	Safety and Security
Elephant Butte Irrigation District	E2	Carryover	Watershed Improvements for Bank Stabilization	Implement a watershed project for the Rincon Arroyo to control sediment, reinforce arroyo banks, and improve flood control and stormwater quality.	Reduces flood risk, prevents erosion, improves water quality, and enhances long-term watershed resilience.	Safety and Security; Water Systems

Jurisdiction	Action	Action Status	Mitigation Action Name	Action Description	Action Benefits	FEMA Community Lifeline Alignment
Elephant Butte Irrigation District	E3	New	Floodwater Mitigation Plan Development	Collaborate with EBID staff and key stakeholders to develop a comprehensive flood mitigation plan addressing regional vulnerabilities and management strategies.	Improves coordination among partners, guides future flood control projects, and reduces overall community flood risk.	Safety and Security; Food, Hydration, Shelter; Health and Medical; Energy; Communications; Transportation; Hazardous Materials; Water Systems
Elephant Butte Irrigation District	E4	New	Stormwater Management Plan Development	Develop a comprehensive stormwater management plan in collaboration with EBID staff and key stakeholders to address drainage, flood risks, and long-term water management needs.	Enhances stormwater infrastructure planning, reduces flooding impacts, improves water quality, and supports coordinated watershed management.	Safety and Security; Food, Hydration, Shelter; Health and Medical; Energy; Communications; Transportation; Hazardous Materials; Water Systems
Elephant Butte Irrigation District	E5	New	Stormwater Conveyance Management	Use dam and drain crews to maintain pooling areas and channels that convey floodwaters into EBID systems, ensuring effective stormwater movement.	Reduces localized flooding, improves dam safety, maintains efficient stormwater conveyance, and protects surrounding infrastructure.	Safety and Security; Transportation; Water Systems
Elephant Butte Irrigation District	E6	Carryover	Emergency Action Plans for EBID Dams	Prepare and submit EAPs for all 25 EBID-sponsored flood control dams in Doña Ana County, including protocols for coordination and communication with emergency managers during extreme rainfall events.	Improves preparedness for dam-related emergencies, enhances interagency coordination, strengthens communication during flood events, and increases overall dam safety.	Safety and Security; Communications
Elephant Butte Irrigation District	E7	New	Vado Arroyo Sediment and Flood Control	Implement a watershed project for the Vado Arroyo to control sediment, reinforce arroyo banks, and improve flood control and stormwater quality.	Reduces flood risk, prevents erosion, improves water quality, and enhances long-term watershed resilience.	Safety and Security; Water Systems
Elephant Butte Irrigation District	E8	New	Centralized Bilingual Public Hazard Education Toolkit	Assist Doña Ana County in the creation and maintenance of a centralized public hazard education toolkit for use across jurisdictions, with outreach materials on all hazards. Materials will be translated into Spanish and tailored for diverse audiences.	Strengthens public awareness, improves risk communication, supports equitable access to preparedness information, and promotes consistent messaging across jurisdictions.	Safety and Security

Jurisdiction	Action	Action Status	Mitigation Action Name	Action Description	Action Benefits	FEMA Community Lifeline Alignment
Elephant Butte Irrigation District	E9	New	Bilingual Public Awareness Campaign	Assist Doña Ana County in the creation and maintenance of the launch of a coordinated hazard signage and public information campaign for high-risk zones, such as flood-prone roadways and dust storm areas. Signage will be installed in English and Spanish and paired with broader public messaging.	Increases situational awareness, supports safe evacuation planning, improves public understanding of local hazards, and enhances community safety.	Safety and Security
Elephant Butte Irrigation District	E10	New	Countywide GIS Database for Repetitive Problem Areas	Assist Doña Ana County in the creation and maintenance of a countywide, GIS-enabled database of repetitive problem areas reported by jurisdictions, with standardized reporting fields.	Centralizes hazard hot spots, supports data-driven project prioritization, reveals cross-jurisdiction clusters, streamlines grant applications, and improves long-term tracking of conditions and mitigation outcomes.	Safety and Security
Elephant Butte Irrigation District	E11	New	Enhanced Emergency Alerting and Public Messaging System	Assist Doña Ana County in strengthening emergency public messaging across all jurisdictions by enhancing IPAWS and integrated alerting systems. Actions include updating and standardizing hazard-specific templates, training authorized personnel, expanding language access, and increasing public awareness of alert platforms such as AlertNM, WEA, and NOAA Weather Radio.	Ensures consistent and timely alerts, improves message clarity and accessibility, overcomes technical and staffing barriers, and enhances life safety through faster, more reliable public warnings during emergencies.	Safety and Security; Communications
Elephant Butte Irrigation District	E12	New	Extreme Temperature Resilience Initiative	Developing and activating Cooling and Warming Center for outdoor workers without access to adequate cooling/heating. during extreme temperature periods	Enhances access to safe indoor environments during dangerous temperature extremes. Improves employee and contractor preparedness and response capacity for prolonged heatwaves	Food, Water & Shelter

Jurisdiction	Action	Action Status	Mitigation Action Name	Action Description	Action Benefits	FEMA Community Lifeline Alignment
Elephant Butte Irrigation District	E13	New	Severe Thunderstorm Impact Reduction Program	Developing and disseminating employee and contractor lightning safety protocols, including shelter-in-place guidance and outdoor activity suspension rules aligned with NWS. Promote internal and irrigation district partners awareness for retrofitting for hail-resistant infrastructure upgrades, insurance coverage, and protective actions.	Reduces risk of injury or death from lightning, including during high-intensity lightning events. Minimizes damage to structures and vehicles from hail impacts across the TORRO intensity range.	Safety & Security
Elephant Butte Irrigation District	E14	New	Wildland–Urban Interface Risk Reduction	Promote defensible space practices and Firewise Communities measures in wildland–urban interface areas of the EBID to reduce structural ignitability and create protective buffers.	Slows wildfire spread, protects homes and critical infrastructure, and enhances employee and contractor safety in high-risk interface zones.	Safety and Security
Elephant Butte Irrigation District	E15	New	Building Code Modernization Project	Evaluate existing building codes and update to the latest International Building Code (IBC) series to ensure consistency across EBID-owned buildings and infrastructure in compliance with state law.	Improves structural safety, enhances resilience to hazards, and ensures uniform life-safety protections through modern construction standards.	Safety and Security
Elephant Butte Irrigation District	E16	New	Drought Resistant Landscape Regulation	Adopt and enforce drought-resistant landscaping regulations to promote water-efficient practices and reduce reliance on high-demand irrigation.	Conserves limited water supplies, lowers maintenance costs, and strengthens EDIB resilience to prolonged drought conditions.	Safety and Security; Water Systems
New Mexico State University	F1	Carryover	Emergency Power Upgrades for Shelter Access	Upgrade distribution systems to ensure shelter facilities have access to reliable emergency power during outages caused by hazard events.	Maintains continuity of critical shelter operations, protects vulnerable populations, and strengthens community resilience during disasters.	Safety and Security; Food, Hydration, Shelter; Energy
New Mexico State University	F2	Carryover	Cross-Jurisdictional Hazard Mapping Initiative	Develop unified mapping to ensure consistent identification of critical assets and hazard areas across jurisdictions, improving interoperability.	Provides a clearer understanding of assets and risks, supports coordinated planning, and enhances interoperability during emergency response and mitigation efforts.	Safety and Security; Food, Hydration, Shelter; Health and Medical; Energy; Communications; Transportation; Hazardous Materials; Water Systems

Jurisdiction	Action	Action Status	Mitigation Action Name	Action Description	Action Benefits	FEMA Community Lifeline Alignment
New Mexico State University	F3	Carryover	Comprehensive Flood Infrastructure Evaluation Plan	Develop a drainage master plan with phased evaluations (I, II, III) to identify, assess, and prioritize feasible flood mitigation projects and infrastructure improvements.	Guides long-term flood management, improves planning and investment decisions, reduces flood risk, and enhances community resilience.	Safety and Security; Food, Hydration, Shelter; Health and Medical; Energy; Communications; Transportation; Hazardous Materials; Water Systems
New Mexico State University	F4	Carryover	Water Conservation Design Standards	Develop and enforce water conservation design standards at NMSU facilities to incorporate sustainable landscaping and building features that reduce and optimize water use.	Conserves water resources, lowers facility operating costs, and enhances long-term sustainability and resilience to drought.	Safety and Security; Water Systems
New Mexico State University	F5	Carryover	Drought-Related Public Education and Outreach	Participate with Doña Ana County in a countywide drought education campaign to raise public awareness of drought conditions and promote water conservation practices.	Increases public knowledge of drought hazards, encourages sustainable water use, and strengthens community resilience to prolonged drought.	Safety and Security
New Mexico State University	F6	Carryover	Drainage Master Plan and Flooding Detection Public Education and Outreach	Participate with Doña Ana County in a countywide public education campaign to increase awareness of dams, drainage systems, and flooding conditions, while providing recommendations for mitigating water runoff. Outreach methods may include website notices and newsletters.	Improves public understanding of flood hazards, encourages proactive runoff mitigation, and strengthens communitywide preparedness and resilience.	Safety and Security
New Mexico State University	F7	Carryover	Weather Detection Public Education and Outreach	Participate with Doña Ana County in a countywide education campaign to raise awareness of extreme weather hazards and provide recommendations for protecting personal and public property. Outreach may include website notices and newsletters.	Increases public awareness of extreme weather risks, promotes protective actions, and enhances community resilience to weather-related hazards.	Safety and Security

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New Mexico State University	F8	Carryover	Land Use Planning Public Education and Outreach	Participate with Doña Ana County in a countywide public education campaign to raise awareness of drought and wildfire hazards and provide land use planning recommendations to reduce risks to personal and public property. Outreach may include website notices and newsletters.	Improves public understanding of how land use decisions affect drought and wildfire vulnerability, encourages risk-reducing practices, and supports safer, more resilient community development.	Safety and Security
New Mexico State University	F9	New	Multi-Hazard Notification System Enhancements	Maintain and enhance NMSU's new emergency notification system to provide timely alerts for a wide range of hazards, including severe weather, hazardous materials, active threats, power outages, and health risks. Alerts include incident details, protective instructions, and may feature maps or suspect descriptions when relevant.	Ensures the campus community receives rapid, actionable information, improves safety during emergencies, and enhances preparedness and response for students, staff, and visitors.	Safety and Security; Communications
New Mexico State University	F10	New	Phased Storm Drainage System Assessment	Evaluate and advance the storm drainage master plan through phased studies (I, II, III) to assess system capacity, identify deficiencies, and determine the feasibility of recommended flood mitigation projects.	Improves understanding of drainage system performance, guides prioritization of feasible projects, reduces flood risk, and informs long-term stormwater management planning.	Safety and Security; Food, Hydration, Shelter; Health and Medical; Energy; Communications; Transportation; Hazardous Materials; Water Systems
New Mexico State University	F11	New	NMSU Hazard Tree Assessment Initiative	Conduct a campuswide tree survey at NMSU to identify and remove hazardous trees that pose risks to public safety, property, utilities, and transportation routes, while promoting wildfire risk reduction and ecosystem health.	Prevents damage and injuries from falling trees, reduces wildfire hazards, protects critical infrastructure, and supports healthier campus ecosystems.	Safety and Security

Jurisdiction	Action	Action Status	Mitigation Action Name	Action Description	Action Benefits	FEMA Community Lifeline Alignment
New Mexico State University	F12	New	Centralized Bilingual Public Hazard Education Toolkit	Assist Doña Ana County in the creation and maintenance of a centralized public hazard education toolkit for use across jurisdictions, with outreach materials on all hazards. Materials will be translated into Spanish and tailored for diverse audiences.	Strengthens public awareness, improves risk communication, supports equitable access to preparedness information, and promotes consistent messaging across jurisdictions.	Safety and Security
New Mexico State University	F13	New	Bilingual Public Awareness Campaign	Assist Doña Ana County in the creation and maintenance of the launch of a coordinated hazard signage and public information campaign for high-risk zones, such as flood-prone roadways and dust storm areas. Signage will be installed in English and Spanish and paired with broader public messaging.	Increases situational awareness, supports safe evacuation planning, improves public understanding of local hazards, and enhances community safety.	Safety and Security
New Mexico State University	F14	New	Countywide GIS Database for Repetitive Problem Areas	Assist Doña Ana County in the creation and maintenance of a countywide, GIS-enabled database of repetitive problem areas reported by jurisdictions, with standardized reporting fields.	Centralizes hazard hot spots, supports data-driven project prioritization, reveals cross-jurisdiction clusters, streamlines grant applications, and improves long-term tracking of conditions and mitigation outcomes.	Safety and Security
New Mexico State University	F15	New	Enhanced Emergency Alerting and Public Messaging System	Assist Doña Ana County in strengthening emergency public messaging across all jurisdictions by enhancing IPAWS and integrated alerting systems. Actions include updating and standardizing hazard-specific templates, training authorized personnel, expanding language access, and increasing public awareness of alert platforms such as AlertNM, WEA, and NOAA Weather Radio.	Ensures consistent and timely alerts, improves message clarity and accessibility, overcomes technical and staffing barriers, and enhances life safety through faster, more reliable public warnings during emergencies.	Safety and Security; Communications

Jurisdiction	Action	Action Status	Mitigation Action Name	Action Description	Action Benefits	FEMA Community Lifeline Alignment
New Mexico State University	F16	New	Severe Thunderstorm Impact Reduction Program	Developing and disseminating public lightning safety protocols, including shelter-in-place guidance and outdoor activity suspension rules aligned with NWS. Conduct outreach to homeowners and businesses on retrofitting for hail-resistant infrastructure upgrades, insurance coverage, and protective actions.	Reduces risk of injury or death from lightning, including during high-intensity lightning events. Minimizes damage to structures and vehicles from hail impacts across the TORRO intensity range.	Safety & Security
New Mexico State University	F17	New	Extreme Temperature Resilience Initiative	Developing and activating Cooling and Warming Center protocols including targeted outreach for at-risk populations such as elderly, outdoor workers, and residents without access to adequate cooling/heating. during extreme temperature periods	Enhances access to safe indoor environments during dangerous temperature extremes. Improves community preparedness and response capacity for prolonged heatwaves	Food, Water & Shelter
Town of Mesilla	G1	Carryover	Public Safety Building Resilience Upgrades	Rehabilitate and repair the Public Safety Building to strengthen its ability to withstand severe weather and maintain continuity of critical operations.	Hardens essential community systems, ensures reliable emergency response capabilities, and reduces vulnerability to severe weather impacts.	Safety and Security; Communications
Town of Mesilla	G2	Carryover	Storm Drain Infrastructure Inspection and Repair	Conduct regular inspections and repairs of storm drain infrastructure to address degradation and capacity issues.	Maintains effective stormwater management, reduces localized flooding, and protects property and infrastructure during flood events.	Safety and Security; Water Systems
Town of Mesilla	G3	Carryover	Expanded Flood Warning and Gage Optimization	Assist the Doña Ana County Flood Commission in expanding flood warning coverage and improving gage placement to deliver targeted alerts for high-risk locations and vulnerable populations.	Provides more accurate and timely flood warnings, improves public safety, and enhances protection for vulnerable populations across the county.	Safety and Security; Communications
Town of Mesilla	G4	Carryover	Backup Power for Critical Town Facilities	Install backup generators at town facilities to maintain water system operations and ensure the Public Safety Building can function as the emergency command center during outages.	Ensures continuity of essential services, sustains emergency response operations, and reduces community disruption during disasters.	Safety and Security; Energy; Communications

Jurisdiction	Action	Action Status	Mitigation Action Name	Action Description	Action Benefits	FEMA Community Lifeline Alignment
Town of Mesilla	G5	Carryover	Implement "Turn Around Don't Drown" Initiative	Implement the National Weather Service “Turn Around Don’t Drown” campaign through signage, barricades, and public outreach to raise awareness of flood dangers on roadways.	Educates residents and motorists, discourages risky driving behaviors, and prevents flood-related injuries and fatalities.	Safety and Security
Town of Mesilla	G6	Carryover	Drought Related Public Education and Outreach	Assist Doña Ana County in delivering public education and outreach campaigns on drought risk and water conservation strategies.	Builds public awareness, promotes sustainable water use, and reduces community vulnerability during prolonged drought conditions.	Safety and Security
Town of Mesilla	G7	Carryover	Drought Resistant Landscape Regulation	Adopt and enforce drought-resistant landscaping regulations to reduce irrigation demands and encourage sustainable landscaping practices.	Conserves municipal water supplies, supports sustainability during drought, and lowers long-term water use across the community.	Safety and Security
Town of Mesilla	G8	Carryover	Integrated Hazard Warning System Upgrades	Assist Doña Ana County in enhancing emergency communication and hazard warning systems by improving infrastructure, redundancy, and integration.	Strengthens communication reliability, speeds delivery of hazard warnings, and improves public safety during disasters.	Safety and Security; Communications
Town of Mesilla	G9	Carryover	Wildland–Urban Interface Risk Reduction	Promote defensible space practices in the wildland–urban interface by creating vegetation buffers and applying Firewise measures around structures and critical facilities.	Reduces the likelihood of wildfire spreading to buildings, protects lives and property, and strengthens resilience of critical facilities.	Safety and Security
Town of Mesilla	G10	Carryover	Wildfire Education and Public Outreach	Host regular educational events and distribute public outreach materials to increase awareness of local wildfire risks, prevention measures, and protective actions.	Improves community knowledge, encourages adoption of wildfire prevention practices, and fosters a shared culture of wildfire risk reduction.	Safety and Security
Town of Mesilla	G11	New	Centralized Bilingual Public Hazard Education Toolkit	Assist Doña Ana County in the creation and maintenance of a centralized public hazard education toolkit for use across jurisdictions, with outreach materials on all hazards. Materials will be translated into Spanish and tailored for diverse audiences.	Strengthens public awareness, improves risk communication, supports equitable access to preparedness information, and promotes consistent messaging across jurisdictions.	Safety and Security

Jurisdiction	Action	Action Status	Mitigation Action Name	Action Description	Action Benefits	FEMA Community Lifeline Alignment
Town of Mesilla	G12	New	Bilingual Public Awareness Campaign	Assist Doña Ana County in the creation and maintenance of the launch of a coordinated hazard signage and public information campaign for high-risk zones, such as flood-prone roadways and dust storm areas. Signage will be installed in English and Spanish and paired with broader public messaging.	Increases situational awareness, supports safe evacuation planning, improves public understanding of local hazards, and enhances community safety.	Safety and Security
Town of Mesilla	G13	New	Countywide GIS Database for Repetitive Problem Areas	Assist Doña Ana County in the creation and maintenance of a countywide, GIS-enabled database of repetitive problem areas reported by jurisdictions, with standardized reporting fields.	Centralizes hazard hot spots, supports data-driven project prioritization, reveals cross-jurisdiction clusters, streamlines grant applications, and improves long-term tracking of conditions and mitigation outcomes.	Safety and Security
Town of Mesilla	G14	New	Enhanced Emergency Alerting and Public Messaging System	Assist Doña Ana County in strengthening emergency public messaging across all jurisdictions by enhancing IPAWS and integrated alerting systems. Actions include updating and standardizing hazard-specific templates, training authorized personnel, expanding language access, and increasing public awareness of alert platforms such as AlertNM, WEA, and NOAA Weather Radio.	Ensures consistent and timely alerts, improves message clarity and accessibility, overcomes technical and staffing barriers, and enhances life safety through faster, more reliable public warnings during emergencies.	Safety and Security; Communications
Town of Mesilla	G15	New	Severe Thunderstorm Impact Reduction Program	Developing and disseminating public lightning safety protocols, including shelter-in-place guidance and outdoor activity suspension rules aligned with NWS. Conduct outreach to homeowners and businesses on retrofitting for hail-resistant infrastructure upgrades, insurance coverage, and protective actions.	Reduces risk of injury or death from lightning, including during high-intensity lightning events. Minimizes damage to structures and vehicles from hail impacts across the TORRO intensity range.	Safety & Security

Jurisdiction	Action	Action Status	Mitigation Action Name	Action Description	Action Benefits	FEMA Community Lifeline Alignment
Town of Mesilla	G16	New	Extreme Temperature Resilience Initiative	Developing and activating Cooling and Warming Center protocols including targeted outreach for at-risk populations such as elderly, outdoor workers, and residents without access to adequate cooling/heating. during extreme temperature periods	Enhances access to safe indoor environments during dangerous temperature extremes. Improves community preparedness and response capacity for prolonged heatwaves	Food, Water & Shelter
Town of Mesilla	G17	New	Flood Retarding Structure EAP Development	Assist the Doña Ana County Flood Commission in developing EAPs for upstream flood retarding structures to strengthen preparedness for potential failures or emergency releases.	Provides clear operational and communication protocols, enables faster and more coordinated protective actions, and reduces downstream flood risk.	Safety and Security; Communications
Village of Hatch	H1	Carryover	Building Code Modernization Project	Evaluate existing building codes and update to the latest International Building Code (IBC) series to ensure consistency across communities and compliance with state law.	Improves structural safety, enhances resilience to hazards, and ensures uniform life-safety protections through modern construction standards.	Safety and Security
Village of Hatch	H2	Carryover	Drought Resistant Landscape Regulation	Adopt and enforce drought-resistant landscaping regulations to promote water-efficient practices and reduce reliance on high-demand irrigation.	Conserves limited water supplies, lowers maintenance costs, and strengthens community resilience to prolonged drought conditions.	Safety and Security; Water Systems
Village of Hatch	H3	Carryover	Wildland–Urban Interface Risk Reduction	Promote defensible space practices and Firewise Communities measures in wildland–urban interface areas to reduce structural ignitability and create protective buffers.	Slows wildfire spread, protects homes and critical infrastructure, and enhances community safety in high-risk interface zones.	Safety and Security
Village of Hatch	H4	Carryover	Flood Retarding Structure EAP Development	Assist the Doña Ana County Flood Commission in developing EAPs for upstream flood retarding structures to strengthen preparedness for potential failures or emergency releases.	Provides clear operational and communication protocols, enables faster and more coordinated protective actions, and reduces downstream flood risk.	Safety and Security; Communications
Village of Hatch	H5	Carryover	County-Wide Flood Warning and Response System	Assist Doña Ana County in developing a countywide flood warning and response system with improved gage placement, targeted alerts, and coordinated response protocols.	Delivers faster and more precise flood warnings, improves evacuation effectiveness, and reduces community exposure to flood hazards.	Safety and Security; Communications

Jurisdiction	Action	Action Status	Mitigation Action Name	Action Description	Action Benefits	FEMA Community Lifeline Alignment
Village of Hatch	H6	Carryover	Flood Risk Reduction Through Education	Reduce flood risk by educating stakeholders, enforcing permit and elevation requirements, and exploring engineered flood protection or relocation options.	Decreases exposure of residents and assets to flooding, ensures safer development patterns, and minimizes future flood damages.	Safety and Security; Transportation; Water Systems
Village of Hatch	H7	New	Centralized Bilingual Public Hazard Education Toolkit	Assist Doña Ana County in the creation and maintenance of a centralized public hazard education toolkit for use across jurisdictions, with outreach materials on all hazards. Materials will be translated into Spanish and tailored for diverse audiences.	Strengthens public awareness, improves risk communication, supports equitable access to preparedness information, and promotes consistent messaging across jurisdictions.	Safety and Security
Village of Hatch	H8	New	Bilingual Public Awareness Campaign	Assist Doña Ana County in the creation and maintenance of the launch of a coordinated hazard signage and public information campaign for high-risk zones, such as flood-prone roadways and dust storm areas. Signage will be installed in English and Spanish and paired with broader public messaging.	Increases situational awareness, supports safe evacuation planning, improves public understanding of local hazards, and enhances community safety.	Safety and Security
Village of Hatch	H9	New	Countywide GIS Database for Repetitive Problem Areas	Assist Doña Ana County in the creation and maintenance of a countywide, GIS-enabled database of repetitive problem areas reported by jurisdictions, with standardized reporting fields.	Centralizes hazard hot spots, supports data-driven project prioritization, reveals cross-jurisdiction clusters, streamlines grant applications, and improves long-term tracking of conditions and mitigation outcomes.	Safety and Security
Village of Hatch	H10	New	Enhanced Emergency Alerting and Public Messaging System	Assist Doña Ana County in strengthening emergency public messaging across all jurisdictions by enhancing IPAWS and integrated alerting systems. Actions include updating and standardizing hazard-specific templates, training authorized personnel, expanding language access, and increasing public awareness of alert platforms such as AlertNM, WEA, and NOAA Weather Radio.	Ensures consistent and timely alerts, improves message clarity and accessibility, overcomes technical and staffing barriers, and enhances life safety through faster, more reliable public warnings during emergencies.	Safety and Security; Communications

Jurisdiction	Action	Action Status	Mitigation Action Name	Action Description	Action Benefits	FEMA Community Lifeline Alignment
Village of Hatch	H11	New	Severe Thunderstorm Impact Reduction Program	Developing and disseminating public lightning safety protocols, including shelter-in-place guidance and outdoor activity suspension rules aligned with NWS. Conduct outreach to homeowners and businesses on retrofitting for hail-resistant infrastructure upgrades, insurance coverage, and protective actions.	Reduces risk of injury or death from lightning, including during high-intensity lightning events. Minimizes damage to structures and vehicles from hail impacts across the TORRO intensity range.	Safety & Security
Village of Hatch	H12	New	Extreme Temperature Resilience Initiative	Developing and activating Cooling and Warming Center protocols including targeted outreach for at-risk populations such as elderly, outdoor workers, and residents without access to adequate cooling/heating. during extreme temperature periods	Enhances access to safe indoor environments during dangerous temperature extremes. Improves community preparedness and response capacity for prolonged heatwaves	Food, Water & Shelter

4.3.5.2 Implementation Information

Jurisdiction	Action	What is the primary and any secondary hazards that the action mitigates?	What is the primary and any secondary goals that the action addresses?	What agencies will lead the implementation of this action?	What agencies will support the implementation of this action?	What are the potential sources of funding that can support this action? **
Dona Ana County	A1	All Hazards	Goal 3	OEM	Participating jurisdictions	HMGP, EMPG, Fire Prevention & Safety (FP&S), Fire Adapted Communities New Mexico (FAC NM), CDBG, International Code Council (ICC), State forestry and water programs
Dona Ana County	A2	All Hazards - Mainly Flooding, Dam Failure, Wind, Fire	Goal 4	OEM	Participating jurisdictions	FEMA National Dam Safety Program (NDSP), HMGP, New Mexico Dam Safety Bureau, CDBG, EPA Clean Water State Revolving Fund (SRF), New Mexico Water Trust Board (NMWTB)

Jurisdiction	Action	What is the primary and any secondary hazards that the action mitigates?	What is the primary and any secondary goals that the action addresses?	What agencies will lead the implementation of this action?	What agencies will support the implementation of this action?	What are the potential sources of funding that can support this action? **
Dona Ana County	A3	All Hazards - Mainly Flooding, Dam Failure, Wind, Fire	Goal 4	OEM	Participating jurisdictions	HMGP, NFIP Community Rating System (CRS), CDBG, ICC, State building code programs
Dona Ana County	A4	**Flooding** & Dam Failure	Goal 4	OEM	Participating jurisdictions	FEMA NDSP, HMGP, New Mexico Dam Safety Bureau, CDBG, EPA Clean Water SRF, NMWTB
Dona Ana County	A5	**Flooding** & Dam Failure	Goal 4	OEM	Participating jurisdictions	FEMA NDSP, HMGP, New Mexico Dam Safety Bureau, CDBG, EPA Clean Water SRF, NMWTB
Dona Ana County	A6	Flooding	Goal 4	OEM	Participating jurisdictions	HMGP, FMA, New Mexico Water Trust Board, United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Watershed and Flood Prevention Operations (PL-566)/Emergency Watershed Protection (EWP), DOT PROTECT, Land and Water Conservation Fund (LWCF), National Fish and Wildlife Foundation (NFWF), CDBG
Dona Ana County	A7	Flooding	Goal 4	OEM	Participating jurisdictions	HMGP, FMA, NMWTB, USDA NRCS EWP, DOT PROTECT, LWCF, NFWF, CDBG
Dona Ana County	A8	Flooding	Goal 4	OEM	Participating jurisdictions	HMGP, FMA, NMWTB, USDA NRCS EWP, DOT PROTECT, LWCF, NFWF, CDBG
Dona Ana County	A9	Flooding	Goal 4	OEM	Participating jurisdictions	HMGP, EMPG, USGS, EPA Environmental Justice grants, DOT PROTECT

Jurisdiction	Action	What is the primary and any secondary hazards that the action mitigates?	What is the primary and any secondary goals that the action addresses?	What agencies will lead the implementation of this action?	What agencies will support the implementation of this action?	What are the potential sources of funding that can support this action? **
Dona Ana County	A10	**Dam Failure,** Flooding	Goal 3	OEM	Participating jurisdictions	FEMA NDSP, HMGP, New Mexico Dam Safety Bureau, CDBG, EPA Clean Water SRF, NMWTB
Dona Ana County	A11	All Hazards	**Goal 3;** Goal 1; Goal 4	OEM	Participating jurisdictions (participating jurisdictions, EBID, NMSU), County Public Information Office, local community organizations, and schools	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs; USFS, BLM, FAC NM, FP&S
Dona Ana County	A12	**Flooding;** severe wind/dust storms; wildfire; dam failure	**Goal 3;** Goal 1; Goal 4	OEM	Flood Commission, participating jurisdictions, NMSU, NMDOT	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs
Dona Ana County	A13	All Hazards	**Goal 4;** Goal 1; Goal 5	DoIT	OEM; participating jurisdictions	HMGP, EMPG, CDBG
Dona Ana County	A14	All Hazards	**Goal 1;** Goal 3; Goal 4	OEM	Participating jurisdictions; County PIO; DHSEM; LE; FD	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs
Dona Ana County	A15	Drought	**Goal 2; Goal 3**	OEM	OEM; participating jurisdictions	State water trust programs
Dona Ana County	A16	Extreme Temperatures	**Goal 3; Goal 4**	OEM	OEM; participating jurisdictions	HMGP, HMA
Dona Ana County	A17	Severe Wind	**Goal 2; Goal 3**	OEM	OEM; participating jurisdictions	HMGP, NFIP Community Rating System (CRS), CDBG, ICC, State building code programs
Dona Ana County	A18	Thunderstorms	**Goal 3; Goal 4**	OEM	OEM; participating jurisdictions	HMGP, FMA

Jurisdiction	Action	What is the primary and any secondary hazards that the action mitigates?	What is the primary and any secondary goals that the action addresses?	What agencies will lead the implementation of this action?	What agencies will support the implementation of this action?	What are the potential sources of funding that can support this action? **
Dona Ana County	A19	Wildfire	**Goal 4; Goal 2**	OEM	OEM; participating jurisdictions	HMGP, United States Forest Service (USFS), Bureau of Land Management (BLM), FAC NM, FP&S, State forestry programs
City of Anthony	B1	Flooding	Goal 4	Planning and Zoning Commission	Neighborhood Services	HMGP, FMA, NMWTB, USDA NRCS EWP, DOT PROTECT, LWCF, NFWF, CDBG
City of Anthony	B2	Flooding	Goal 2	Planning and Zoning Commission	Neighborhood Services	HMGP, FMA, NMWTB, USDA NRCS EWP, DOT PROTECT, LWCF, NFWF, CDBG
City of Anthony	B3	**Flooding;** Extreme Cold; Severe Wind; Thunderstorms; Drought	Goal 2	Planning and Zoning Commission	Neighborhood Services	HMGP, NFIP CRS, CDBG, ICC, State building code programs
City of Anthony	B4	**Flooding;** Wildfire	Goal 2	Planning and Zoning Commission	Neighborhood Services	HMGP, FMA, NMWTB, USDA NRCS EWP, DOT PROTECT, LWCF, NFWF, CDBG
City of Anthony	B5	**Wildfire;** Severe Wind	Goal 3	Planning and Zoning Commission	Neighborhood Services	HMGP, USFS, BLM, FAC NM, FP&S, State forestry programs
City of Anthony	B6	All-hazards	Goal 1	Office of the Mayor	Police Department	HMGP, EMPG, USGS, EPA Environmental Justice grants, DOT PROTECT
City of Anthony	B7	**Flooding;** Dam Failure	Goal 4	Office of the Mayor	Police Department	HMGP, EMPG, USGS, EPA Environmental Justice grants, DOT PROTECT
City of Anthony	B8	**Dam Failure;** Flooding	Goal 4	Planning and Zoning Commission	Neighborhood Services	FEMA NDSP, HMGP, New Mexico Dam Safety Bureau, CDBG, EPA Clean Water SRF, NMWTB

Jurisdiction	Action	What is the primary and any secondary hazards that the action mitigates?	What is the primary and any secondary goals that the action addresses?	What agencies will lead the implementation of this action?	What agencies will support the implementation of this action?	What are the potential sources of funding that can support this action? **
City of Anthony	B9	**Drought;** Extreme Temperatures	Goal 1	Planning and Zoning Commission	Neighborhood Services	HMGP, EMPG, Fire Prevention & Safety (FP&S), Fire Adapted Communities New Mexico (FAC NM), CDBG, International Code Council (ICC), State forestry and water programs
City of Anthony	B10	All Hazards	**Goal 3;** Goal 1; Goal 4	Office of the Mayor	OEM, local community organizations, and schools	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs; HMGP, USFS, BLM, FAC NM, FP&S
City of Anthony	B11	**Flooding;** severe wind/dust storms; wildfire; dam failure	**Goal 3;** Goal 1; Goal 4	Planning and Zoning Commission	OEM, Neighborhood Services	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs
City of Anthony	B12	All Hazards	**Goal 4;** Goal 1; Goal 5	Office of the Mayor	OEM	HMGP, EMPG, CDBG
City of Anthony	B13	All Hazards	**Goal 1;** Goal 3; Goal 4	Office of the Mayor	OEM; County PIO; DHSEM; LE; FD	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs
City of Anthony	B14	Extreme Temperatures	**Goal 3; Goal 4**	Planning and Zoning Commission	OEM, local community organizations, and schools	HMGP, HMA
City of Anthony	B15	Thunderstorms	**Goal 3; Goal 4**	Planning and Zoning Commission	OEM	HMGP, HMA
City of Las Cruces	C1	Flooding	Goal 1	Community Development	Public Works	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs
City of Las Cruces	C2	**Flooding;** Extreme Cold; Severe Wind; Thunderstorms	Goal 1	Community Development	Public Works	HMGP, EMPG, USGS, EPA Environmental Justice grants, DOT PROTECT
City of Las Cruces	C3	Drought	Goal 3	City of Las Cruces Utilities Department / Water Conservation Coordinator	Public Works	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs
City of Las Cruces	C4	**Dam Failure;** Flooding	Goal 1	Public Works	Community Development	FEMA NDSP, HMGP, New Mexico Dam Safety Bureau, CDBG, EPA Clean Water SRF, NMWTB

Jurisdiction	Action	What is the primary and any secondary hazards that the action mitigates?	What is the primary and any secondary goals that the action addresses?	What agencies will lead the implementation of this action?	What agencies will support the implementation of this action?	What are the potential sources of funding that can support this action? **
City of Las Cruces	C5	**Flooding;** Extreme Heat; Windstorms; Winter Storms	Goal 4	Community Development	Public Works	HMGP, EMPG, USGS, EPA Environmental Justice grants, DOT PROTECT
City of Las Cruces	C6	Flooding	Goal 4	Community Development / Public Works	DAC Flood Commission	HMGP, EMPG, USGS, EPA Environmental Justice grants, DOT PROTECT
City of Las Cruces	C7	All Hazards	Goal 1	PIO/CD/PW	OEM	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs
City of Las Cruces	C8	Flooding	Goal 2	Community Development / Public Works	DAC Flood Commission	HMGP, FMA, NMWTB, USDA NRCS EWP, DOT PROTECT, LWCF, NFWF, CDBG
City of Las Cruces	C9	Drought	Goal 2	Community Development / Public Works	DAC Flood Commission	Bureau of Reclamation Drought Resilience, HMGP
City of Las Cruces	C10	Flooding	Goal 2	Public Works	CLC Floodplain Management, DAC Flood Commission	HMGP, FMA, NMWTB, USDA NRCS EWP, DOT PROTECT, LWCF, NFWF, CDBG
City of Las Cruces	C11	Flooding	Goal 4	Engineering / Floodplain Management / GIS	OEM	HMGP, FMA, NMWTB, USDA NRCS EWP, DOT PROTECT, LWCF, NFWF, CDBG
City of Las Cruces	C12	**Flooding;** Extreme Heat, Water Quality	Goal 4	City of Las Cruces Public Works / Floodplain Administrator	OEM	HMGP, FMA, NMWTB, USDA NRCS EWP, DOT PROTECT, LWCF, NFWF, CDBG
City of Las Cruces	C13	**Flooding;** Sedimentation	Goal 5	City of Las Cruces Public Works / Floodplain Administrator	Doña Ana County Flood Commission, NM OSE, Elephant Butte Irrigation District (EBID), OEM	HMGP, FMA, NMWTB, USDA NRCS EWP, DOT PROTECT, LWCF, NFWF, CDBG

Jurisdiction	Action	What is the primary and any secondary hazards that the action mitigates?	What is the primary and any secondary goals that the action addresses?	What agencies will lead the implementation of this action?	What agencies will support the implementation of this action?	What are the potential sources of funding that can support this action? **
City of Las Cruces	C14	**Flooding;** Sedimentation	Goal 3	City of Las Cruces Public Works / Floodplain Administrator / DAC flood Commission	OEM	HMGP, USFS, BLM, FAC NM, FP&S, State forestry programs
City of Las Cruces	C15	**Flooding;** Sedimentation	Goal 2	City of Las Cruces Public Works / Floodplain Administrator	OEM	HMGP, FMA, NMWTB, USDA NRCS EWP, DOT PROTECT, LWCF, NFWF, CDBG
City of Las Cruces	C16	All Hazards	**Goal 3;** Goal 1; Goal 4	Administration	OEM, local community organizations, and schools	HMGP, USFS, BLM, FAC NM, FP&S, State forestry programs
City of Las Cruces	C17	**Flooding;** severe wind/dust storms; wildfire; dam failure	**Goal 3;** Goal 1; Goal 4	Community Development / Public Works	Floodplain Administrator / DAC flood Commission	HMGP, NFIP CRS, CDBG, ICC, State building code programs; State water trust programs
City of Las Cruces	C18	All Hazards	**Goal 4;** Goal 1; Goal 5	Community Development / Public Works	OEM	HMGP, EMPG, CDBG
City of Las Cruces	C19	All Hazards	**Goal 1;** Goal 3; Goal 4	PIO	OEM; County PIO; DHSEM; LE; FD	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs
City of Las Cruces	C20	Extreme Temperatures	**Goal 3; Goal 4**	Community Development / Public Works	OEM	HMGP, HMA
City of Las Cruces	C21	Severe Wind	**Goal 2; Goal 3**	Administration	OEM	HMGP, NFIP Community Rating System (CRS), CDBG, ICC, State building code programs
City of Las Cruces	C22	Thunderstorms	**Goal 3; Goal 4**	Community Development / Public Works	OEM	HMGP, HMA
City of Las Cruces	C23	Wildfire	**Goal 4; Goal 2**	Community Development / Public Works	OEM	HMGP, United States Forest Service (USFS), Bureau of Land Management (BLM), FAC NM, FP&S, State forestry programs

Jurisdiction	Action	What is the primary and any secondary hazards that the action mitigates?	What is the primary and any secondary goals that the action addresses?	What agencies will lead the implementation of this action?	What agencies will support the implementation of this action?	What are the potential sources of funding that can support this action? **
City of Sunland Park	D1	Flooding	Goal 2	Public Works	Community Development	HMGP, FMA, NMWTB, USDA NRCS EWP, DOT PROTECT, LWCF, NFWF, CDBG
City of Sunland Park	D2	Flooding	Goal 2	Public Works	Community Development	HMGP, FMA, NMWTB, USDA NRCS EWP, DOT PROTECT, LWCF, NFWF, CDBG
City of Sunland Park	D3	Flooding	Goal 2	Public Works	Community Development	HMGP, FMA, NMWTB, USDA NRCS EWP, DOT PROTECT, LWCF, NFWF, CDBG; NMFA Water Trust Board
City of Sunland Park	D4	Flooding	Goal 2	Public Works	Community Development	HMGP, FMA, NMWTB, USDA NRCS EWP, DOT PROTECT, LWCF, NFWF, CDBG
City of Sunland Park	D5	Flooding	Goal 2	Public Works	Community Development	HMGP, FMA, NMWTB, USDA NRCS EWP, DOT PROTECT, LWCF, NFWF, CDBG
City of Sunland Park	D6	All Hazards	**Goal 3;** Goal 1; Goal 4	Administration	OEM, local community organizations, and schools	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs; HMGP, USFS, BLM, FAC NM, FP&S
City of Sunland Park	D7	**Flooding;** severe wind/dust storms; wildfire; dam failure	**Goal 3;** Goal 1; Goal 4	Public Works	Community Development	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs; USFS, BLM, FAC NM, FP&S
City of Sunland Park	D8	All Hazards	**Goal 4;** Goal 1; Goal 5	Public Works	OEM, Community Development	HMGP, EMPG, CDBG
City of Sunland Park	D9	All Hazards	**Goal 1;** Goal 3; Goal 4	Administration	OEM; County PIO; DHSEM; LE; FD	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs

Jurisdiction	Action	What is the primary and any secondary hazards that the action mitigates?	What is the primary and any secondary goals that the action addresses?	What agencies will lead the implementation of this action?	What agencies will support the implementation of this action?	What are the potential sources of funding that can support this action? **
City of Sunland Park	D10	All Hazards	**Goal 4;** Goal 5	Public Safety	Community Development	HMGP, NFIP Community Rating System (CRS), CDBG, ICC, State building code programs
City of Sunland Park	D11	Dam Failure	**Goal 3; Goal 4**	Public Works	Community Development	FEMA NDSP, HMGP, New Mexico Dam Safety Bureau, CDBG, EPA Clean Water SRF, NMWTB
City of Sunland Park	D12	Extreme Temperatures	**Goal 3; Goal 4**	Administration	Community Development	HMGP, HMA
City of Sunland Park	D13	Thunderstorms	**Goal 3; Goal 4**	Administration	Community Development	HMGP, HMA
City of Sunland Park	D14	Wildfire	**Goal 4; Goal 2**	Public Works	Community Development	HMGP, United States Forest Service (USFS), Bureau of Land Management (BLM), FAC NM, FP&S, State forestry programs
City of Sunland Park	D15	Severe Wind	**Goal 2; Goal 3**	Public Works	Community Development	HMGP, NFIP Community Rating System (CRS), CDBG, ICC, State building code programs
City of Sunland Park	D16	Drought	**Goal 2; Goal 3**	Administration	Community Development	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs
Elephant Butte Irrigation District	E1	**Dam Failure;** Flooding	Goal 4	EBID/SCADA and Maintenance	Dona Ana County	FEMA NDSP, HMGP, New Mexico Dam Safety Bureau, CDBG, EPA Clean Water SRF, NMWTB
Elephant Butte Irrigation District	E2	**Flooding;** Thunderstorms	Goal 2	EBID and DAC Flood Commission	Caballo Soil & Water Conservation District	HMGP, FMA, NMWTB, USDA NRCS EWP, DOT PROTECT, LWCF, NFWF, CDBG
Elephant Butte Irrigation District	E3	Flooding	Goal 4	EBID/Engineering	Dona Ana County	HMGP, FMA, NMWTB, USDA NRCS EWP, DOT PROTECT, LWCF, NFWF, CDBG

Jurisdiction	Action	What is the primary and any secondary hazards that the action mitigates?	What is the primary and any secondary goals that the action addresses?	What agencies will lead the implementation of this action?	What agencies will support the implementation of this action?	What are the potential sources of funding that can support this action? **
Elephant Butte Irrigation District	E4	**Flooding;** Thunderstorms	Goal 4	EBID/Engineering	Stormwater Coalition	HMGP, FMA, NMWTB, USDA NRCS EWP, DOT PROTECT, LWCF, NFWF, CDBG; Capital outlay
Elephant Butte Irrigation District	E5	**Flooding;** Thunderstorms	Goal 2	EBID/Maintenance	Interstate Stream Commission (ISC)	HMGP, FMA, NMWTB, USDA NRCS EWP, DOT PROTECT, LWCF, NFWF, CDBG
Elephant Butte Irrigation District	E6	**Flooding;** Thunderstorms	Goal 4	EBID/Engineering	Consultants	FEMA NDSP, HMGP, New Mexico Dam Safety Bureau, CDBG, EPA Clean Water SRF, NMWTB
Elephant Butte Irrigation District	E7	**Flooding;** Thunderstorms	Goal 2	EBID and DAC Flood Commission	Dona Ana County	HMGP, FMA, NMWTB, USDA NRCS EWP, DOT PROTECT, LWCF, NFWF, CDBG
Elephant Butte Irrigation District	E8	All Hazards	**Goal 3;** Goal 1; Goal 4	EBID	OEM, local community organizations, and schools	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs
Elephant Butte Irrigation District	E9	**Flooding;** severe wind/dust storms; wildfire; dam failure	**Goal 3;** Goal 1; Goal 4	EBID	OEM	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs
Elephant Butte Irrigation District	E10	All Hazards	**Goal 4;** Goal 1; Goal 5	EBID	OEM	HMGP, EMPG, CDBG
Elephant Butte Irrigation District	E11	All Hazards	**Goal 1;** Goal 3; Goal 4	EBID	OEM; County PIO; DHSEM; LE; FD	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs
Elephant Butte Irrigation District	E12	Extreme Temperatures	**Goal 3; Goal 4**	EBID	OEM	HMGP, HMA
Elephant Butte Irrigation District	E13	Thunderstorms	**Goal 3; Goal 4**	EBID	OEM	HMGP, HMA
Elephant Butte Irrigation District	E14	Wildfire	**Goal 4; Goal 2**	EBID	OEM	HMGP, United States Forest Service (USFS), Bureau of Land Management (BLM), FAC NM, FP&S, State forestry programs

Jurisdiction	Action	What is the primary and any secondary hazards that the action mitigates?	What is the primary and any secondary goals that the action addresses?	What agencies will lead the implementation of this action?	What agencies will support the implementation of this action?	What are the potential sources of funding that can support this action? **
Elephant Butte Irrigation District	E15	Severe Wind	**Goal 2; Goal 3**	EBID	OEM	HMGP, NFIP Community Rating System (CRS), CDBG, ICC, State building code programs
Elephant Butte Irrigation District	E16	Drought	**Goal 2; Goal 3**	EBID	OEM	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs
New Mexico State University	F1	**Extreme Cold;** Severe Wind; Thunderstorms	**Goal 4;** Goal 3	Facilities and Services	Utilities	HMGP, BRIC, DOE Grid Resilience Programs, State energy programs; NM Capital Outlay
New Mexico State University	F2	Flood	**Goal 4;** Goal 2	Facilities and Services	University Architect and Space Planning	HMGP, EMPG, CDBG; NMSU Central Fund
New Mexico State University	F3	**Flood;** Dam Failure	Goal 4	Facilities and Services	Project Development & Engineering	HMGP, FMA, NMWTB, USDA NRCS EWP, DOT PROTECT, LWCF, NFWF, CDBG
New Mexico State University	F4	Drought	**Goal 2;** Goal 3	Facilities and Services	Project Development & Engineering	HMGP, DOT PROTECT, LWCF, NFWF; NMSU Central Fund
New Mexico State University	F5	Drought	**Goal 1;** Goal 3	Emergency Planning Committee	OEM	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs
New Mexico State University	F6	**Flood;** Dam Failure	**Goal 1;** Goal 3	Emergency Planning Committee	OEM	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs; NM HED funding
New Mexico State University	F7	**Thunderstorms;** Extreme Cold; Severe Wind	**Goal 1;** Goal 3	Emergency Planning Committee	OEM	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs
New Mexico State University	F8	**Drought;** Wildfire	**Goal 1;** Goal 3	Emergency Planning Committee	OEM	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs
New Mexico State University	F9	**Flood;** Severe Wind; Thunderstorms	**Goal 1;** Goal 4	Emergency Planning Committee	Police Department	HMGP, EMPG, USGS, EPA Environmental Justice grants, DOT PROTECT; NMSU Central Funds

Jurisdiction	Action	What is the primary and any secondary hazards that the action mitigates?	What is the primary and any secondary goals that the action addresses?	What agencies will lead the implementation of this action?	What agencies will support the implementation of this action?	What are the potential sources of funding that can support this action? **
New Mexico State University	F10	**Flood;** Dam Failure	**Goal 3;** Goal 4	Facilities and Services	Project Development & Engineering	HMGP, FMA, NMWTB, USDA NRCS EWP, DOT PROTECT, LWCF, NFWF, CDBG; NM HED Funding
New Mexico State University	F11	**Severe Wind;** Wildfire	**Goal 3;** Goal 4	Facilities and Services	Grounds	HMGP, USFS, BLM, FAC NM, FP&S, State forestry programs; NM HED Funding
New Mexico State University	F12	All Hazards	**Goal 3;** Goal 1; Goal 4	Emergency Planning Committee	OEM, local community organizations, and schools	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs; HMGP, USFS, BLM, FAC NM, FP&S
New Mexico State University	F13	**Flooding;** severe wind/dust storms; wildfire; dam failure	**Goal 3;** Goal 1; Goal 4	Facilities and Services	Project Development & Engineering, Grounds	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs; HMGP, USFS, BLM, FAC NM, FP&S
New Mexico State University	F14	All Hazards	**Goal 4;** Goal 1; Goal 5	Emergency Planning Committee	OEM	HMGP, EMPG, CDBG
New Mexico State University	F15	All Hazards	**Goal 1;** Goal 3; Goal 4	Emergency Planning Committee	OEM; County PIO; DHSEM; LE; FD	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs;
New Mexico State University	F16	Extreme Temperatures	**Goal 3; Goal 4**	Emergency Planning Committee	OEM, local community organizations, and schools	HMGP, HMA
New Mexico State University	F17	Thunderstorms	**Goal 3; Goal 4**	Emergency Planning Committee	OEM, local community organizations, and schools	HMGP, HMA
Town of Mesilla	G1	**Thunderstorms;** Flood, Severe Wind, Wildfire	**Goal 4;** Goal 1	Public Works / Director	OEM	HMGP, NFIP CRS, CDBG, ICC, State building code programs
Town of Mesilla	G2	**Flooding;** Thunderstorms	**Goal 4;** Goal 2	Public Works / Director	OEM	FEMA NDSP, HMGP, New Mexico Dam Safety Bureau, CDBG, EPA Clean Water SRF, NMWTB

Jurisdiction	Action	What is the primary and any secondary hazards that the action mitigates?	What is the primary and any secondary goals that the action addresses?	What agencies will lead the implementation of this action?	What agencies will support the implementation of this action?	What are the potential sources of funding that can support this action? **
Town of Mesilla	G3	**Flood;** Dam Failure, Thunderstorms	**Goal 1;** Goal 4	Fire Department / Fire Chief	OEM	HMGP, EMPG, USGS, EPA Environmental Justice grants, DOT PROTECT
Town of Mesilla	G4	**Thunderstorms;** Flooding, Severe Wind, Extreme Temperatures, Dam Failure	**Goal 4;** Goal 1	Public Works / Director	OEM	HMGP, Building Resilient Infrastructure and Communities (BRIC), Department of Energy (DOE) Grid Resilience Programs, State energy programs
Town of Mesilla	G5	**Flooding;** Thunderstorms	**Goal 3;** Goal 4	Safety Training Consultants	OEM	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs
Town of Mesilla	G6	**Drought;** Extreme Temperatures	**Goal 3;** Goal 4	Public Works / Director	OEM	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs
Town of Mesilla	G7	**Drought;** Extreme Temperatures	**Goal 2;** Goal 4	Community Development / Coordinator	OEM	HMGP, DOT PROTECT, LWCF, NFWF
Town of Mesilla	G8	All Hazards	**Goal 1;** Goal 4	Fire Department / Fire Chief	OEM	HMGP, EMPG, USGS, EPA Environmental Justice grants, DOT PROTECT
Town of Mesilla	G9	**Wildfire;** Drought, Extreme Temperatures	**Goal 4;** Goal 2	Fire Department / Fire Chief	OEM	HMGP, USFS, BLM, FAC NM, FP&S, State forestry programs
Town of Mesilla	G10	**Wildfire;** Drought, Extreme Temperatures	**Goal 3;** Goal 4	Fire Department / Fire Chief	OEM	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs
Town of Mesilla	G11	All Hazards	**Goal 3;** Goal 1; Goal 4	Administration	OEM, local community organizations, and schools	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs
Town of Mesilla	G12	**Flooding;** severe wind/dust storms; wildfire; dam failure	**Goal 3;** Goal 1; Goal 4	Public Works / Director	OEM	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs; USFS, BLM, FAC NM, FP&S
Town of Mesilla	G13	All Hazards	**Goal 4;** Goal 1; Goal 5	Public Works / Director	OEM	HMGP, EMPG, CDBG

Jurisdiction	Action	What is the primary and any secondary hazards that the action mitigates?	What is the primary and any secondary goals that the action addresses?	What agencies will lead the implementation of this action?	What agencies will support the implementation of this action?	What are the potential sources of funding that can support this action? **
Town of Mesilla	G14	All Hazards	**Goal 1;** Goal 3; Goal 4	Fire Department / Fire Chief	OEM; County PIO; DHSEM; LE; FD	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs
Town of Mesilla	G15	Extreme Temperatures	**Goal 3; Goal 4**	Community Development / Coordinator	OEM	HMGP, HMA
Town of Mesilla	G16	Thunderstorms	**Goal 3; Goal 4**	Public Works / Director	OEM	HMGP, HMA
Town of Mesilla	G17	Dam Failure	**Goal 3; Goal 4**	Administration	Community Development	FEMA NDSP, HMGP, New Mexico Dam Safety Bureau, CDBG, EPA Clean Water SRF, NMWTB
Village of Hatch	H1	**Flood;** Severe Wind, Drought, Extreme Cold, Thunderstorm	Goal 2	Planning Development Department	OEM	HMGP, DOT PROTECT, LWCF, NFWF
Village of Hatch	H2	Flood	Goal 2	Planning Development Department	OEM	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs
Village of Hatch	H3	Wildfire	Goal 2	Mayor	OEM	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs
Village of Hatch	H4	Dam Failure	Goal 1	Planning Development Department	OEM	FEMA NDSP, HMGP, New Mexico Dam Safety Bureau, CDBG, EPA Clean Water SRF, NMWTB
Village of Hatch	H5	**Flood;** Dam Failure	Goal 4	Doña Ana County Flood Commission	Mayor	HMGP, EMPG, USGS, EPA Environmental Justice grants, DOT PROTECT
Village of Hatch	H6	Flood	Goal 2	Planning Development Department	OEM	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs
Village of Hatch	H7	All Hazards	**Goal 3;** Goal 1; Goal 4	Administration	OEM, local community organizations, and schools	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs
Village of Hatch	H8	**Flooding;** severe wind/dust storms; wildfire; dam failure	**Goal 3;** Goal 1; Goal 4	Planning Development Department	OEM	HMGP, EMPG, FP&S, FAC NM, CDBG, ICC, State forestry and water programs
Village of Hatch	H9	All Hazards	**Goal 4;** Goal 1; Goal 5	Planning Development Department	OEM	HMGP, EMPG, CDBG

Jurisdiction	Action	What is the primary and any secondary hazards that the action mitigates?	What is the primary and any secondary goals that the action addresses?	What agencies will lead the implementation of this action?	What agencies will support the implementation of this action?	What are the potential sources of funding that can support this action? **
Village of Hatch	H10	All Hazards	**Goal 1;** Goal 3; Goal 4	Mayor	OEM; County PIO; DHSEM; LE; FD	HMGP, EMPG, USGS, EPA Environmental Justice grants, DOT PROTECT
Village of Hatch	H11	Extreme Temperatures	**Goal 3; Goal 4**	Planning Development Department	OEM	HMGP, HMA
Village of Hatch	H12	Thunderstorms	**Goal 3; Goal 4**	Administration	OEM	HMGP, HMA

4.3.5.3 Action Prioritization

Jurisdiction	Action	Estimated Cost	Estimated Timeline	Risk Reduction	Funding Availability	Cost Effectiveness	Community Leadership and Support	Co-Benefits	Total	Priority
Dona Ana County	A1	$50k - $249k	1 - 5 years	2 - Some impact	1 - No funding identified	1 - Low cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	9	Low
Dona Ana County	A2	$250k - $999k	1 - 5 years	1 - No impact	1 - No funding identified	1 - Low cost/benefit ratio	4 - High support	3 - Multiple co-benefits	10	Mediu m
Dona Ana County	A3	$1M - $5M	5+ years	4 - Substantial impact	1 - No funding identified	1 - Low cost/benefit ratio	4 - High support	3 - Multiple co-benefits	13	Mediu m
Dona Ana County	A4	$250k - $999k	1 - 5 years	3 - Moderate impact	1 - No funding identified	2 - Moderate cost/benefit ratio	4 - High support	3 - Multiple co-benefits	13	Mediu m
Dona Ana County	A5	$250k - $999k	1 - 5 years	3 - Moderate impact	1 - No funding identified	2 - Moderate cost/benefit ratio	4 - High support	3 - Multiple co-benefits	17	High
Dona Ana County	A6	>$5M	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	4 - High support	3 - Multiple co-benefits	17	High

Jurisdiction	Action	Estimated Cost	Estimated Timeline	Risk Reduction	Funding Availability	Cost Effectiveness	Community Leadership and Support	Co-Benefits	Total	Priority
Dona Ana County	A7	$1M - $5M	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	4 - High support	3 - Multiple co-benefits	17	High
Dona Ana County	A8	>$5M	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	4 - High support	3 - Multiple co-benefits	17	High
Dona Ana County	A9	$250k - $999k	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	4 - High support	3 - Multiple co-benefits	16	High
Dona Ana County	A10	$250k - $999k	1 - 5 years	2 - Some impact	1 - No funding identified	1 - Low cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	9	Low
Dona Ana County	A11	<$50k	1 - 5 years	3 - Moderate impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	4 - High support	3 - Multiple co-benefits	15	High
Dona Ana County	A12	$50k - $249k	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	14	Mediu m
Dona Ana County	A13	<$50k	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	15	High
Dona Ana County	A14	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	4 - High support	3 - Multiple co-benefits	17	High
Dona Ana County	A15	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	16	High
Dona Ana County	A16	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	15	High
Dona Ana County	A17	$50k - $249k	1 - 5 years	5 - Significant impact	1 - No funding identified	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	15	High

Jurisdiction	Action	Estimated Cost	Estimated Timeline	Risk Reduction	Funding Availability	Cost Effectiveness	Community Leadership and Support	Co-Benefits	Total	Priority
Dona Ana County	A18	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	16	High
Dona Ana County	A19	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	16	High
City of Anthony	B1	<$50k	1 - 5 years	4 - Substantial impact	1 - No funding identified	1 - Low cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	11	Medium
City of Anthony	B2	<$50k	1 - 5 years	3 - Moderate impact	1 - No funding identified	1 - Low cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	10	Medium
City of Anthony	B3	<$50k	1 - 5 years	3 - Moderate impact	1 - No funding identified	1 - Low cost/benefit ratio	2 - Some support	3 - Multiple co-benefits	10	Medium
City of Anthony	B4	<$50k	5+ years	4 - Substantial impact	1 - No funding identified	1 - Low cost/benefit ratio	2 - Some support	3 - Multiple co-benefits	11	Medium
City of Anthony	B5	<$50k	1 - 5 years	3 - Moderate impact	1 - No funding identified	1 - Low cost/benefit ratio	2 - Some support	2 - Some co-benefit	9	Low
City of Anthony	B6	$1M - $5M	1 - 5 years	3 - Moderate impact	1 - No funding identified	2 - Moderate cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	12	Medium
City of Anthony	B7	$50k - $249k	1 - 5 years	4 - Substantial impact	1 - No funding identified	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	14	Medium
City of Anthony	B8	<$50k	1 - 5 years	3 - Moderate impact	1 - No funding identified	1 - Low cost/benefit ratio	2 - Some support	2 - Some co-benefit	9	Low
City of Anthony	B9	<$50k	< 1 year	3 - Moderate impact	1 - No funding identified	1 - Low cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	10	Medium

Jurisdiction	Action	Estimated Cost	Estimated Timeline	Risk Reduction	Funding Availability	Cost Effectiveness	Community Leadership and Support	Co-Benefits	Total	Priority
City of Anthony	B10	<$50k	1 - 5 years	3 - Moderate impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	4 - High support	3 - Multiple co-benefits	15	High
City of Anthony	B11	<$50k	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	14	Medium
City of Anthony	B12	<$50k	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	15	High
City of Anthony	B13	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	4 - High support	3 - Multiple co-benefits	17	High
City of Anthony	B14	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	15	High
City of Anthony	B15	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	16	High
City of Las Cruces	C1	<$50k	< 1 year	2 - Some impact	2 - Funding identified; not secured	2 - Moderate cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	12	Medium
City of Las Cruces	C2	<$50k	1 - 5 years	4 - Substantial impact	1 - No funding identified	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	14	Medium
City of Las Cruces	C4	<$50k	< 1 year	3 - Moderate impact	2 - Funding identified; not secured	2 - Moderate cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	12	Medium
City of Las Cruces	C5	$250k - $999k	1 - 5 years	3 - Moderate impact	2 - Funding identified; not secured	2 - Moderate cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	12	Medium
City of Las Cruces	C6	$250k - $999k	1 - 5 years	3 - Moderate impact	2 - Funding identified; not secured	2 - Moderate cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	12	Medium

Jurisdiction	Action	Estimated Cost	Estimated Timeline	Risk Reduction	Funding Availability	Cost Effectiveness	Community Leadership and Support	Co-Benefits	Total	Priority
City of Las Cruces	C7	$50k - $249k	1 - 5 years	3 - Moderate impact	2 - Funding identified; not secured	2 - Moderate cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	12	Medium
City of Las Cruces	C8	<$50k	< 1 year	3 - Moderate impact	1 - No funding identified	1 - Low cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	11	Medium
City of Las Cruces	C9	$250k - $999k	1 - 5 years	4 - Substantial impact	1 - No funding identified	2 - Moderate cost/benefit ratio	4 - High support	2 - Some co-benefit	13	Medium
City of Las Cruces	C10	$250k - $999k	5+ years	4 - Substantial impact	1 - No funding identified	3 - High cost/benefit ratio	4 - High support	3 - Multiple co-benefits	15	High
City of Las Cruces	C11	$50k - $249k	5+ years	4 - Substantial impact	1 - No funding identified	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	14	Medium
City of Las Cruces	C12	$50k - $249k	1 - 5 years	3 - Moderate impact	2 - Funding identified; not secured	2 - Moderate cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	13	Medium
City of Las Cruces	C13	$1M - $5M	5+ years	3 - Moderate impact	1 - No funding identified	2 - Moderate cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	11	Medium
City of Las Cruces	C14	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	16	High
City of Las Cruces	C15	<$50k	< 1 year	4 - Substantial impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	2 - Some support	3 - Multiple co-benefits	14	Medium
City of Las Cruces	C16	$1M - $5M	5+ years	4 - Substantial impact	1 - No funding identified	3 - High cost/benefit ratio	2 - Some support	3 - Multiple co-benefits	13	Medium
City of Las Cruces	C17	<$50k	1 - 5 years	3 - Moderate impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	4 - High support	3 - Multiple co-benefits	15	High

Jurisdiction	Action	Estimated Cost	Estimated Timeline	Risk Reduction	Funding Availability	Cost Effectiveness	Community Leadership and Support	Co-Benefits	Total	Priority
City of Las Cruces	C18	<$50k	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	14	Medium
City of Las Cruces	C19	<$50k	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	15	High
City of Las Cruces	C20	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	15	High
City of Las Cruces	C21	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	16	High
City of Las Cruces	C22	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	16	High
City of Las Cruces	C23	$50k - $249k	1 - 5 years	5 - Significant impact	1 - No funding identified	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	15	High
City of Sunland Park	D1	$1M - $5M	1 - 5 years	5 - Significant impact	3 - Funding secured	3 - High cost/benefit ratio	4 - High support	3 - Multiple co-benefits	18	High
City of Sunland Park	D2	$1M - $5M	1 - 5 years	4 - Substantial impact	3 - Funding secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	16	High
City of Sunland Park	D3	$1M - $5M	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	2 - Moderate cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	14	Medium
City of Sunland Park	D4	$1M - $5M	1 - 5 years	5 - Significant impact	1 - No funding identified	3 - High cost/benefit ratio	4 - High support	2 - Some co-benefit	15	High
City of Sunland Park	D5	$1M - $5M	1 - 5 years	3 - Moderate impact	2 - Funding identified; not secured	2 - Moderate cost/benefit ratio	4 - High support	1 - No known co-benefits	12	Medium

Jurisdiction	Action	Estimated Cost	Estimated Timeline	Risk Reduction	Funding Availability	Cost Effectiveness	Community Leadership and Support	Co-Benefits	Total	Priority
City of Sunland Park	D6	<$50k	1 - 5 years	3 - Moderate impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	4 - High support	3 - Multiple co-benefits	15	High
City of Sunland Park	D7	<$50k	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	14	Mediu m
City of Sunland Park	D8	<$50k	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	15	High
City of Sunland Park	D9	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	4 - High support	3 - Multiple co-benefits	17	High
City of Sunland Park	D10	>$5M	5+ years	3 - Moderate impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	14	Mediu m
City of Sunland Park	D11	$50k - $249k	1 - 5 years	5 - Significant impact	1 - No funding identified	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	15	High
City of Sunland Park	D12	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	15	High
City of Sunland Park	D13	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	16	High
City of Sunland Park	D14	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	16	High
City of Sunland Park	D15	$50k - $249k	1 - 5 years	5 - Significant impact	1 - No funding identified	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	15	High
City of Sunland Park	D16	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	16	High

Jurisdiction	Action	Estimated Cost	Estimated Timeline	Risk Reduction	Funding Availability	Cost Effectiveness	Community Leadership and Support	Co-Benefits	Total	Priority
Elephant Butte Irrigation District	E1	<$50k	< 1 year	3 - Moderate impact	3 - Funding secured	1 - Low cost/benefit ratio	4 - High support	3 - Multiple co-benefits	14	Medium
Elephant Butte Irrigation District	E2	$1M - $5M	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	2 - Moderate cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	14	Medium
Elephant Butte Irrigation District	E3	$50k - $249k	1 - 5 years	2 - Some impact	1 - No funding identified	2 - Moderate cost/benefit ratio	2 - Some support	3 - Multiple co-benefits	10	Medium
Elephant Butte Irrigation District	E4	$50k - $249k	1 - 5 years	2 - Some impact	1 - No funding identified	2 - Moderate cost/benefit ratio	2 - Some support	3 - Multiple co-benefits	10	Medium
Elephant Butte Irrigation District	E5	>$5M	5+ years	4 - Substantial impact	3 - Funding secured	2 - Moderate cost/benefit ratio	4 - High support	3 - Multiple co-benefits	16	High
Elephant Butte Irrigation District	E6	$1M - $5M	5+ years	3 - Moderate impact	3 - Funding secured	2 - Moderate cost/benefit ratio	4 - High support	3 - Multiple co-benefits	15	High
Elephant Butte Irrigation District	E7	$1M - $5M	1 - 5 years	4 - Substantial impact	1 - No funding identified	2 - Moderate cost/benefit ratio	2 - Some support	3 - Multiple co-benefits	12	Medium
Elephant Butte Irrigation District	E8	<$50k	1 - 5 years	3 - Moderate impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	4 - High support	3 - Multiple co-benefits	15	High
Elephant Butte Irrigation District	E9	<$50k	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	14	Medium
Elephant Butte Irrigation District	E10	<$50k	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	15	High
Elephant Butte Irrigation District	E11	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	4 - High support	3 - Multiple co-benefits	17	High

Jurisdiction	Action	Estimated Cost	Estimated Timeline	Risk Reduction	Funding Availability	Cost Effectiveness	Community Leadership and Support	Co-Benefits	Total	Priority
Elephant Butte Irrigation District	E12	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	15	High
Elephant Butte Irrigation District	E13	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	16	High
Elephant Butte Irrigation District	E14	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	16	High
Elephant Butte Irrigation District	E15	$50k - $249k	1 - 5 years	5 - Significant impact	1 - No funding identified	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	15	High
Elephant Butte Irrigation District	E16	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	16	High
New Mexico State University	F1	$1M - $5M	1 - 5 years	3 - Moderate impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	14	Medium
New Mexico State University	F2	<$50k	1 - 5 years	3 - Moderate impact	2 - Funding identified; not secured	1 - Low cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	12	Medium
New Mexico State University	F3	$1M - $5M	< 1 year	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	4 - High support	3 - Multiple co-benefits	17	High
New Mexico State University	F4	<$50k	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	1 - Low cost/benefit ratio	4 - High support	3 - Multiple co-benefits	14	Medium
New Mexico State University	F5	<$50k	1 - 5 years	2 - Some impact	2 - Funding identified; not secured	1 - Low cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	10	Medium
New Mexico State University	F6	<$50k	1 - 5 years	2 - Some impact	2 - Funding identified; not secured	1 - Low cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	10	Medium

Jurisdiction	Action	Estimated Cost	Estimated Timeline	Risk Reduction	Funding Availability	Cost Effectiveness	Community Leadership and Support	Co-Benefits	Total	Priority
New Mexico State University	F7	<$50k	1 - 5 years	3 - Moderate impact	2 - Funding identified; not secured	1 - Low cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	11	Medium
New Mexico State University	F8	<$50k	1 - 5 years	3 - Moderate impact	2 - Funding identified; not secured	1 - Low cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	11	Medium
New Mexico State University	F9	$50k - $249k	< 1 year	4 - Substantial impact	3 - Funding secured	2 - Moderate cost/benefit ratio	4 - High support	3 - Multiple co-benefits	16	High
New Mexico State University	F10	$1M - $5M	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	4 - High support	3 - Multiple co-benefits	17	High
New Mexico State University	F11	$50k - $249k	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	2 - Moderate cost/benefit ratio	4 - High support	3 - Multiple co-benefits	15	High
New Mexico State University	F12	<$50k	1 - 5 years	3 - Moderate impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	4 - High support	3 - Multiple co-benefits	15	High
New Mexico State University	F13	<$50k	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	14	Medium
New Mexico State University	F14	<$50k	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	15	High
New Mexico State University	F15	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	4 - High support	3 - Multiple co-benefits	17	High
New Mexico State University	F16	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	16	High
New Mexico State University	F17	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	15	High

Jurisdiction	Action	Estimated Cost	Estimated Timeline	Risk Reduction	Funding Availability	Cost Effectiveness	Community Leadership and Support	Co-Benefits	Total	Priority
Town of Mesilla	G1	$50k - $249k	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	2 - Moderate cost/benefit ratio	4 - High support	2 - Some co-benefit	14	Medium
Town of Mesilla	G2	$50k - $249k	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	14	Medium
Town of Mesilla	G3	$50k - $249k	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	14	Medium
Town of Mesilla	G4	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	2 - Moderate cost/benefit ratio	4 - High support	2 - Some co-benefit	15	High
Town of Mesilla	G5	<$50k	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	4 - High support	2 - Some co-benefit	15	High
Town of Mesilla	G6	<$50k	1 - 5 years	3 - Moderate impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	14	Medium
Town of Mesilla	G7	<$50k	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	15	High
Town of Mesilla	G8	$50k - $249k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	4 - High support	3 - Multiple co-benefits	17	High
Town of Mesilla	G9	$50k - $249k	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	15	High
Town of Mesilla	G10	<$50k	1 - 5 years	3 - Moderate impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	14	Medium
Town of Mesilla	G11	<$50k	1 - 5 years	3 - Moderate impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	4 - High support	3 - Multiple co-benefits	15	High

Jurisdiction	Action	Estimated Cost	Estimated Timeline	Risk Reduction	Funding Availability	Cost Effectiveness	Community Leadership and Support	Co-Benefits	Total	Priority
Town of Mesilla	G12	<$50k	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	14	Medium
Town of Mesilla	G13	<$50k	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	15	High
Town of Mesilla	G14	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	4 - High support	3 - Multiple co-benefits	17	High
Town of Mesilla	G15	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	16	High
Town of Mesilla	G16	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	15	High
Town of Mesilla	G17	$50k - $249k	1 - 5 years	5 - Significant impact	1 - No funding identified	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	15	High
Village of Hatch	H1	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	16	High
Village of Hatch	H2	<$50k	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	15	High
Village of Hatch	H3	$50k - $249k	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	15	High
Village of Hatch	H4	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	15	High
Village of Hatch	H5	$50k - $249k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	4 - High support	3 - Multiple co-benefits	17	High

Jurisdiction	Action	Estimated Cost	Estimated Timeline	Risk Reduction	Funding Availability	Cost Effectiveness	Community Leadership and Support	Co-Benefits	Total	Priority
Village of Hatch	H6	$50k - $249k	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	2 - Moderate cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	14	Medium
Village of Hatch	H7	<$50k	1 - 5 years	3 - Moderate impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	4 - High support	3 - Multiple co-benefits	15	High
Village of Hatch	H8	<$50k	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	14	Medium
Village of Hatch	H9	<$50k	1 - 5 years	4 - Substantial impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	15	High
Village of Hatch	H10	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	4 - High support	3 - Multiple co-benefits	17	High
Village of Hatch	H11	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	16	High
Village of Hatch	H12	<$50k	1 - 5 years	5 - Significant impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	2 - Some co-benefit	15	High



Next Steps: HHPD Strategy Development

Development and prioritization of dam-related mitigation actions will be revisited following completion of the county's dam EAP project, which will provide additional data and context to evaluate risk reduction potential and implementation feasibility.

* Non-natural hazard mitigation actions that fall outside the scope of the core document are captured in Appendix G
** More information on potential funding sources is provided in Appendix F.

5 PLAN IMPLEMENTATION AND MAINTENANCE

5.1 PLAN IMPLEMENTATION

Successful mitigation planning does not end with plan approval, it begins there. Implementation of the mitigation strategy requires active participation from local governments, community partners, and residents. This section outlines how the 2026 MJHMP will transition from a planning document into a guiding framework for real-world action.

Plan implementation is rooted in local ownership and designed to align with each jurisdiction's operational realities, available resources, and existing planning mechanisms. Actions identified in this plan will be carried out over the next five years by the lead agencies designated in each jurisdiction's mitigation strategy table, supported by local departments and, where applicable, external partners.

Implementation will also be supported through:

- Formal adoption by all participating jurisdictions.
- Intentional integration of mitigation actions into other local planning, development, and capital investment processes.
- Continued public involvement and transparency to ensure community priorities remain centered in mitigation efforts.

Each of these elements is described in the subsections below.

5.1.1 Formal Adoption

Following FEMA's approval of the 2026 MJHMP, each participating jurisdiction formally adopted the plan through a resolution or similar governing action. Adoption is a required step to maintain eligibility for FEMA's hazard mitigation grant programs, including the Flood Mitigation Assistance (FMA) program and others administered under the Hazard Mitigation Assistance umbrella.

Sample adoption language was provided to jurisdictions to support a consistent and efficient adoption process. With the adoption complete, the plan now serves as an official guiding document for local mitigation efforts and reflects a shared commitment among participating entities to implement the strategies it outlines.

5.1.2 Integration with Other Community Initiatives

5.1.2.1 Integration Over the Prior Five Years

Over the past five years, the 2020 Doña Ana County All-Hazards Mitigation Plan has been used to inform and support other planning and decision-making processes across the planning area. Most notably, the hazard identification and risk assessment developed for the mitigation plan served as the foundation for the County's recently updated All-Hazards Emergency Operations Plan (AHEOP), which is used by all participating jurisdictions. By aligning these two documents, the County ensured consistency in risk assumptions, planning priorities, and strategic direction across preparedness and mitigation efforts. Table 47 captures this, and other jurisdiction-specific examples of integration over the preceding five years.

Table 47: Recent Integration with Community Initiatives

Jurisdiction	Plan or Program Integrated With	Description of Integration
All	All-Hazards Emergency Operations Plan (AHEOP)	Informed the risk assessment
City of Anthony	Anthony's Zoning Ordinances and Development Review Procedures	The City of Anthony has incorporated the 2021 AHMP into its local planning through active participation in the county-wide mitigation planning process and by updating its zoning ordinances and development review procedures to reflect the plan's risk reduction goals. Anthony's planning and zoning commission now uses the AHMP as a guiding document when evaluating new developments, especially in flood-prone areas. The city has emphasized stormwater infrastructure improvements and land use compatibility to reduce exposure to hazards. These efforts are supported by the AHMP's vulnerability assessments and mitigation strategies, which have been integrated into Anthony's broader community development goals. Additionally, the City coordinates with Doña Ana OEM to ensure that its emergency preparedness efforts are consistent with the AHMP and the AHEOP. This alignment strengthens Anthony's ability to respond to disasters and enhances its eligibility for federal hazard mitigation funding.

Jurisdiction	Plan or Program Integrated With	Description of Integration
City of Las Cruces	CRS Program Activities	Adoption of updated floodplain regulations (Ord. 3050) directly tied to mitigation strategies; CRS outreach and flood awareness programs built from the risk communication goals in the HMP; Integration of flood hazard mapping and substantial improvement determinations into permitting decisions. These actions not only meet NFIP requirements but also align with the HMP's objectives to reduce long-term risk and protect vulnerable populations.
City of Sunland Park	Sunland Park's Comprehensive Master Plan and Land Development Code	The City of Sunland Park has actively integrated the 2021 AHMP into its local planning framework by aligning its comprehensive master plan and land development code with the hazard mitigation goals outlined in the county-wide strategy. The city participated in the multi-jurisdictional planning committee that helped shape the AHMP, ensuring that local vulnerabilities, such as flooding from the Rio Grande and extreme weather events, were accurately assessed and addressed. Sunland Park's updated zoning ordinances and infrastructure planning reflect the AHMP's emphasis on reducing long-term risk to life and property. For example, the city has adopted overlay districts and performance-based zoning that guide development away from hazard-prone areas. These regulatory updates are designed to support sustainable growth while minimizing exposure to natural hazards. The City also uses the AHMP as a reference for emergency preparedness and infrastructure investments, including stormwater management and flood control improvements. By aligning its planning priorities with the AHMP and the County's AHEOP, Sunland Park ensures consistency in risk assumptions and strategic direction across both mitigation and response efforts.
Elephant Butte Irrigation District	Capital Improvement Planning	Hazard mitigation priorities have lead to state and federally funded projects at the district leading to decisions and contributions being made on improving infrastructure, maintaining facilities and infrastructure, dam and flood control safety projects, and maintenance scheduling and response to flooding events.
Elephant Butte Irrigation District	Emergency Response Procedures and Collaboration	EBID has collaborated with various local agencies and county officials to implement procedures to deal with hazardous events and respond to such events promptly and in conjunction with our collaborators.

Jurisdiction	Plan or Program Integrated With	Description of Integration
Elephant Butte Irrigation District	Water Operations	Water delivery changes and adjustments are made during extreme weather, and decisions are made on how to route the water in conjunction with hazard mitigation plans.
Village of Hatch	FEMA Grant Programs; State Mitigation Grant Programs; Land Use and Zoning	Over the last five years, the Village of Hatch has actively utilized the 2021 AHMP to guide community planning and funding priorities. The AHMP was a key reference in the recent update of our AHEOP, ensuring that hazard identification and response strategies were aligned. It has been applied in capital outlay and infrastructure planning, particularly for drainage improvements on Franklin Street identified as high priority in the plan. The AHMP also strengthened our FEMA and state hazard mitigation grant applications by providing documented risk assessments and mitigation strategies, including support for applications for stormwater infrastructure upgrades. In addition, it has informed land use and zoning considerations, specifically in limiting new development in identified flood-prone areas and integrating hazard-resilient construction standards into local planning discussions.

5.1.2.2 Future Integration

For a mitigation plan to be effective, its strategies must be embedded into the broader planning and decision-making framework of each jurisdiction. Throughout the development of the 2026 MJHMP, the planning team encouraged jurisdictions to consider how mitigation actions could support and align with existing plans, policies, and initiatives such as comprehensive plans, capital improvement programs, floodplain management plans, climate action efforts, and land use or development regulations.

During the planning process, jurisdictions identified opportunities to integrate mitigation strategies into:

- Local comprehensive and general plans
- Emergency operations and continuity plans
- Community wildfire protection plans
- Zoning ordinances and development review processes
- Infrastructure and capital improvement planning

In addition, the processes outlined in the following subsections were agreed upon.

5.1.2.2.1 Process to Integrate the Mitigation Plan into Other Planning Mechanisms

Jurisdictions will integrate the mitigation plan's strategies and risk reduction goals into other community planning processes through the following steps:

- Review of the mitigation plan during updates of Comprehensive Plans and Capital Improvement Plans (CIPs).
- Inclusion of relevant mitigation actions into departmental strategic planning efforts, particularly in Public Works, Emergency Management, and Community Development.
- Annual coordination meetings among planning, zoning, and emergency management staff to review crosswalks between the mitigation plan and other planning documents.
- Staff will ensure consistency of goals and objectives when developing or updating land-use policies, zoning ordinances, and development review processes.

5.1.2.2.2 Process to Integrate Ideas, Information, and Strategy into Other Planning Mechanisms

To integrate the ideas, information, and strategies from the mitigation plan into other planning mechanisms, jurisdictions will:

- Establish a standing countywide mitigation planning team, consisting of representatives from planning, emergency management, public works, and other key departments, to meet annually.
- Distribute mitigation plan summaries and risk assessments to relevant departments during budget development and capital planning cycles.
- Apply hazard data and risk assessments from the mitigation plan during site plan reviews, zoning amendments, and infrastructure design.
- Incorporate mitigation strategies into grant applications and funding proposals to align infrastructure investments with resilience objectives.

5.1.3 Continued Public Involvement

Ongoing public engagement is essential to maintaining transparency, relevance, and accountability in the implementation of this plan. Public input during the development of the 2026 MJHMP helped shape the risk assessment, identify local concerns, and inform the development of meaningful mitigation actions. That engagement is not a one-time event, it should continue throughout the plan's lifecycle.

Jurisdictions are encouraged to:

- Provide regular updates on mitigation progress through websites, newsletters, or public meetings
- Solicit input on mitigation priorities as part of broader planning or development processes
- Engage underrepresented and high-risk populations in future updates and implementation efforts

- Involve community-based organizations, businesses, and non-governmental partners in ongoing mitigation activities

The planning team also provided each jurisdiction with an Annual MPT, which can be used to track progress, capture lessons learned and communicate outcomes to stakeholders and the public. This tool helps support meaningful engagement and provides a mechanism for communities to revisit and refine mitigation priorities as conditions change.

Maintaining an open dialogue with the public throughout the implementation period helps build long-term trust and ensures that mitigation efforts continue to reflect the evolving needs and values of Doña Ana County residents.

5.2 MONITORING, EVALUATING, AND UPDATING THE PLAN

Maintaining the 2026 MJHMP is essential to ensuring its relevance, accuracy, and effectiveness over time. This section outlines the process for monitoring, evaluating, and updating the plan in accordance with FEMA requirements and local needs.

5.2.1 Annual Review and Progress Tracking

Each participating jurisdiction is encouraged to review mitigation actions annually to assess progress, identify barriers, and update implementation status. To support this process, the planning team provided an Annual Mitigation Reporting Tool, which can be used to document milestones, funding status, lead agency updates, and any shifts in local priorities or capacity. OEM may coordinate annual check-ins or collect reports to maintain momentum and support regional alignment.

5.2.2 Evaluating the Plan

The Doña Ana County Office of Emergency Management (OEM) will evaluate the effectiveness of the mitigation plan following significant hazard events, including federally declared disasters and localized incidents that result in substantial damage or disruption. This evaluation will be integrated into OEM's After-Action Review (AAR) process and will include:

- Reviewing whether existing mitigation actions were effective in reducing risk or damage
- Assessing the condition and performance of any implemented mitigation projects related to the incident
- Evaluating the relevance and prioritization of non-implemented actions, especially those labeled "Delayed" or "Not Started," in light of new damage or emerging risks
- Identifying gaps in the current mitigation strategy or risk assessment that may warrant new or revised mitigation actions in the next plan update
- Reviewing other elements of the plan, such as the community profile, to determine whether updates or corrections are needed based on new information or conditions

This process can also be conducted as part of the regularly scheduled annual review and should be completed during this review if no significant hazard events have occurred.

OEM will lead this evaluation process and engage affected jurisdictions, stakeholders, and planning partners. Criteria for evaluation include project performance during the event, alignment with evolving risk patterns, implementation status, and continued feasibility. Findings will be used to inform future updates of the plan and to reprioritize actions where needed.

5.2.3 Five-Year Plan Update

Per FEMA regulations, the plan must be reviewed, revised, and resubmitted for approval every five years. At that time, the planning team will reassess hazard data, evaluate new or emerging risks, and update the mitigation strategy based on completed actions and lessons learned. The update process will follow the same collaborative and community-driven model used to develop this plan, including participation from all jurisdictions, relevant stakeholders, and the public.

5.2.4 Responsibility for Maintenance

The Doña Ana County OEM will coordinate ongoing plan maintenance and serve as the primary point of contact for questions or updates. OEM may convene the LPT or a similar group of representatives as needed to support interim updates, share best practices, and prepare for the next formal plan revision.

Keeping the plan up to date not only ensures compliance with FEMA requirements but also strengthens the county's ability to pursue mitigation funding, reduce disaster impacts, and build long-term community resilience.

APPENDIX A: ACRONYMS

The following acronyms are used throughout this plan to improve readability and ensure consistent reference to agencies, programs, and technical terms.

Acronym	Term
AHMP	All-Hazards Mitigation Plan
AQB	New Mexico Environment Department, Air Quality Bureau
AQI	Air Quality Index
ATSDR	Agency for Toxic Substances and Disease Registry
BLM	Bureau of Land Management
CDC	Centers for Disease Control and Prevention
CG	Cloud-to-ground
EAP	Emergency Action Plan
EBID	Elephant Butte Irrigation District
EOC	Emergency operations center
EPA	U.S. Environmental Protection Agency
EPCRA	Emergency Planning and Community Right-to-Know Act
FCC	Federal Communications Commission
FEMA	Federal Emergency Management Agency
FRS	Flood retarding structures
GDP	Gross domestic product
HAZMAT	Hazardous materials
HIRA	Hazard Identification and Risk Assessment
HMEP	Hazardous Materials Emergency Preparedness
HSPA	Health Professional Shortage Area
LEPC	Local Emergency Planning Committee
LPT	Local Planning Team
MJHMP	Multi-Jurisdictional Hazard Mitigation Plan
Mph	Miles per hour
MPT	Mitigation Planning Tool
NAAQS	National Ambient Air Quality Standards
NCEI	National Centers for Environmental Information
NID	National Inventory of Dams
NIDIS	National Integrated Drought Information System

Acronym	Term
NMED	New Mexico Environment Department
NMSFD	New Mexico State Forestry Division
NMSU	New Mexico State University
NOAA	National Oceanic and Atmospheric Administration
NRCS	Natural Resource Conservation Service
NWS	National Weather Service
OBAE	State Office of Broadband Access and Expansion
OEM	Doña Ana County Office of Emergency Management
OSE	Office of the State Engineer
RETA	New Mexico Renewable Energy Transmission Authority
SCADA	Supervisory Control and Data Acquisition
SERC	State Emergency Response Commission
SHMP	State of New Mexico Hazard Mitigation Plan
SNAP	Supplemental Nutrition Assistance Program
SVI	Social Vulnerability Index
TORRO	Tornado and Storm Research Organization
TUP	Traditionally underserved population
U.S.	United States
USBR	U.S. Bureau of Reclamation
USDM	U.S. Drought Monitor
USFS	U.S. Forest Service
USGS	U.S. Geological Survey
USSDO	U.S. Seasonal Drought Outlook
WIC	Women, Infants, and Children
WUI	Wildland-urban interface

APPENDIX B: GLOSSARY

The following glossary provides definitions for key terms used throughout this plan to support clarity, consistency, and a shared understanding of technical and planning concepts.

Term	Definition
Arroyo	A natural, steep-sided channel or gully that temporarily carries water after heavy rainfall but is typically dry for most of the year. In Doña Ana County, arroyos are common features of the desert landscape and play a significant role in directing stormwater runoff. While they serve as natural drainage pathways, they can quickly fill during flash flood events, posing hazards to infrastructure, roadways, and nearby development.
Bankfull capacity	The maximum amount of water a stream or river channel can carry before it begins to overflow its banks and spill into the floodplain. In Doña Ana County, understanding bankfull capacity is critical for flood risk analysis and infrastructure design, particularly in arroyos and ephemeral streams that respond rapidly to intense rainfall.
Colonia	A rural, unincorporated community near the U.S.-Mexico border that often lacks basic infrastructure such as potable water, wastewater systems, electricity, and safe housing. In Doña Ana County, colonias are recognized as economically distressed areas with limited access to services and elevated vulnerability to public health risks and natural hazards.
Community Rating System	A voluntary program under the NFIP that recognizes and encourages community floodplain management activities that exceed minimum NFIP requirements. Participating jurisdictions receive discounted flood insurance premiums based on their CRS class (ranging from Class 10 to Class 1, with lower numbers indicating higher levels of activity).
Cutoff upper low	A type of upper-level low-pressure system that becomes detached from the main jet stream flow. These systems can linger over a region for several days, often producing prolonged periods of heavy rainfall or severe weather. In southern New Mexico, cutoff upper lows are a key driver of late-season thunderstorms and localized flooding.
Derecho	A widespread, long-lived windstorm associated with a fast-moving band of severe thunderstorms. These events produce straight-line winds that can exceed hurricane-force intensity. Although rare in the Southwest, a derecho could result in extensive wind damage across Doña Ana County, particularly to power infrastructure, agriculture, and vulnerable structures.
Dryline	A boundary that separates moist air from the Gulf of Mexico and dry air from the desert Southwest. In New Mexico, the dryline can act as a trigger for thunderstorm development when the moist and dry air masses collide. Drylines are most common in the spring and early summer and can lead to severe weather outbreaks in Doña Ana County.

Term	Definition
Flowpath	The path that stormwater follows as it moves across the landscape, often shaped by topography, land use, and drainage features. Mapping flowpaths is essential for identifying flood-prone areas and for designing effective stormwater management systems in both urban and rural parts of Doña Ana County.
Gustnado	A small whirlwind which forms as an eddy in thunderstorm outflows. They do not connect with any cloud-based rotation and are not tornadoes. Since their origin is associated with cumuliform clouds, gustnadoes will are classified as Thunderstorm Wind events. Like dust devils, some stronger gustnadoes can cause damage.
Haboob	An intense dust storm carried on a powerful gust front or downburst, typically forming when rain-cooled air from a thunderstorm spreads outward, lifting loose sand and dust into a dense, wall-like cloud. These storms can sharply reduce visibility and pose hazards to health, transportation, and infrastructure.
Maar volcano	A broad, shallow volcanic crater formed by explosive interactions between magma and groundwater. Maars are typically filled with water and appear as low-lying depressions. In Doña Ana County, Kilbourne Hole is a notable example of a maar volcano.
Repetitive Loss Property	Those properties that have incurred flood-related damage on two or more occasions within a 10-year period, for which the cost of repairs equaled or exceeded $1,000 each time.
Severe Repetitive Loss Property	A subset of repetitive loss properties with more frequent or severe damage, as defined by FEMA, and are eligible for specific mitigation funding under FEMA's HMA programs.

APPENDIX C: REFERENCES

The following existing plans, studies, reports, and technical information were reviewed and incorporated into the development/update of this plan.

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APPENDIX D: SAMPLE ADOPTION

[Jurisdiction], Doña Ana County, State of New Mexico

RESOLUTION NO. _____.

A Resolution of the [Jurisdiction] Adopting the 2026 Doña Ana All-Hazard Mitigation Plan

WHEREAS the (local governing body) recognizes the threat that natural hazards pose to people and property within Doña Ana County; and

WHEREAS the Doña Ana Office of Emergency Management prepared a multi-hazard mitigation plan, hereby known as the 2026 Doña Ana All-Hazard Mitigation Plan in accordance with federal laws, including the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended; the National Flood Insurance Act of 1968, as amended; and the National Dam Safety Program Act, as amended; and

WHEREAS the 2026 Doña Ana All-Hazard Mitigation Plan identifies mitigation goals and actions to reduce or eliminate long-term risk to people and property in (local government) from the impacts of future hazards and disasters; and

WHEREAS adoption by the (local governing body) demonstrates its commitment to hazard mitigation and achieving the goals outlined in the (title and date of mitigation plan).

NOW THEREFORE, BE IT RESOLVED BY THE (LOCAL GOVERNMENT), NEW MEXICO THAT:

Section 1. In accordance with (local rule for adopting resolutions), the (local governing body) adopts the 2026 Doña Ana All-Hazard Mitigation Plan. While content related to (local government) may require revisions to meet the plan approval requirements, changes occurring after adoption will not require (local government) to re-adopt any further iterations of the plan.

Subsequent plan updates following the approval period for this plan will require separate adoption resolutions.

ADOPTED by a vote of ____ in favor and ____ against, and ____ abstaining, this _____ day of

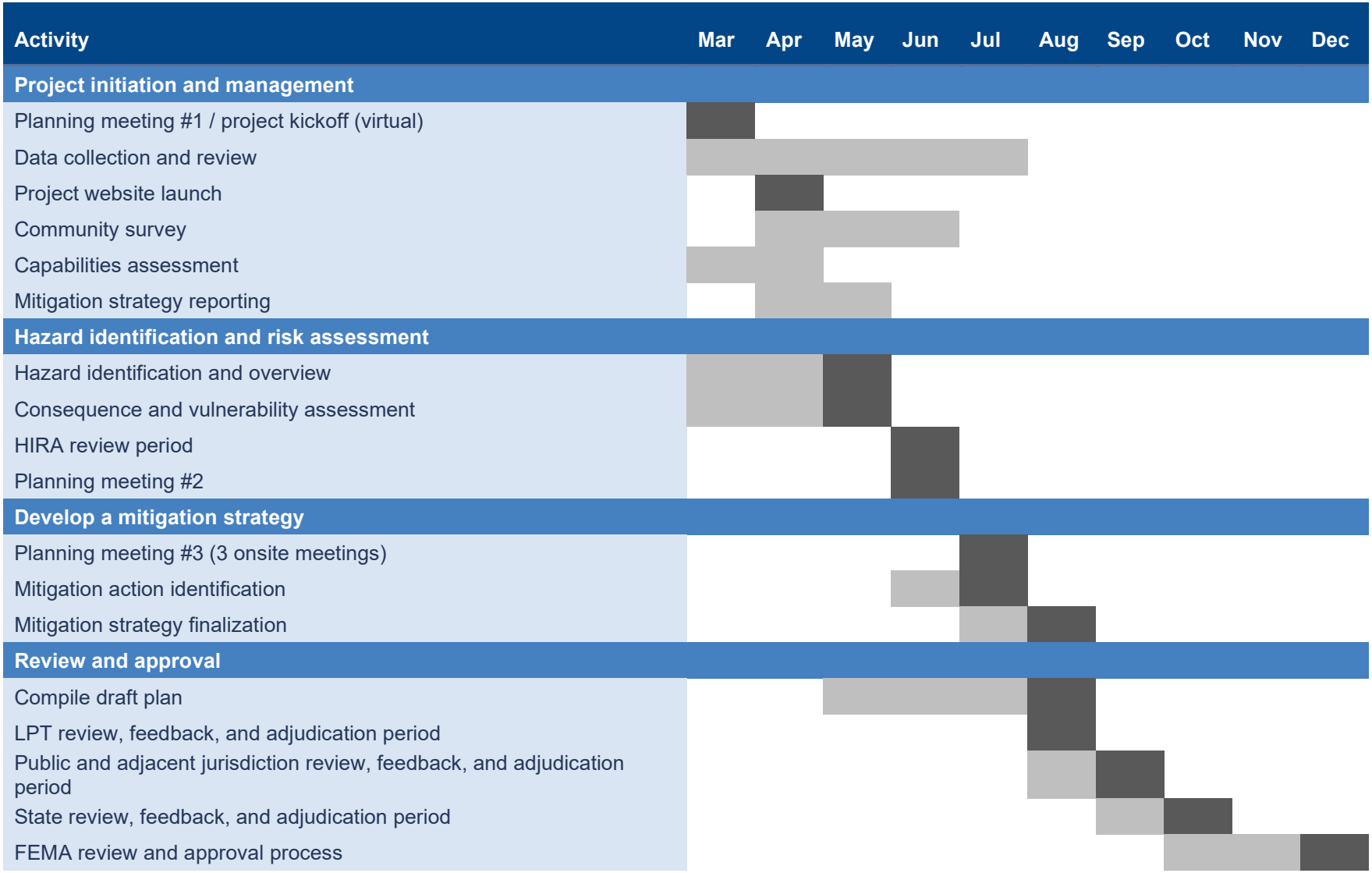
_____, _____.

By: _____ (print name)

ATTEST: By: _____ (print name)

APPROVED AS TO FORM: By: _____ (print name)

APPENDIX E: TIMELINE OF WORK (2025)



APPENDIX F: POTENTIAL FUNDING SOURCES

This appendix describes potential funding sources for Doña Ana County and its participating jurisdictions mitigation actions. *

FUNDING SOURCES

There are a variety of federal, state, local, and private / non-profit funding sources that can be utilized to implement mitigation actions. This annex covers only a small subset of potential funding available to New Mexico jurisdictions; for a full list of potential funding sources, please see the Region 6 New Mexico Mitigation Assistance Resource Guide.

Federal Funding Sources

Hazard Mitigation Grant Program (HMGP): HMGP provides funding to state, local, tribal, and territorial governments for projects that reduce long-term risk from natural hazards. Eligible activities include developing or updating FEMA-approved mitigation plans, retrofitting buildings and infrastructure, acquiring hazard-prone properties, improving drainage and slope stability, and implementing nature-based solutions such as floodplain restoration and aquifer storage. All projects must be cost-effective, technically feasible, and compliant with Environmental Planning and Historic Preservation requirements.

Flood Mitigation Assistance (FMA): FMA is a competitive funding opportunity for state, local, territorial, and tribal governments aimed at reducing or eliminating repetitive flood damage to structures insured under the National Flood Insurance Program. Established under the National Flood Insurance Reform Act of 1994, FMA prioritizes projects based on eligibility, cost-effectiveness, and applicant ranking. To qualify, jurisdictions must have a FEMA-approved hazard mitigation plan in place, as required for receiving non-emergency disaster assistance.

Fire Management Assistance Grant (FMAG): The FMAG Program provides rapid response funding to state, local, and tribal governments for the mitigation, management, and control of wildfires that pose a threat of major disaster on public or private forests and grasslands. Once a fire meets FEMA's cost threshold and is declared eligible, FMAG covers 75% of approved firefighting costs (including equipment, personnel, field camps, and mobilization) while the state covers the remaining 25%. Tribal Nations may access FMAG support through direct disaster declarations, as subrecipients under state requests, or by coordinating with FEMA Tribal Liaisons.

National Dam Safety Program (NDSP): NDSP is FEMA's initiative to reduce risks to life, property, and the environment from dam-related hazards. It supports state and territorial dam safety programs through grants for inspections, emergency planning, public awareness, and equipment purchases. Key funding includes the State Assistance Grant Program and the Rehabilitation of High Hazard Potential Dams Program, which together provided over $200 million in FY 2024. FEMA also leads interagency coordination through the Interagency Committee on Dam Safety and the National Dam Safety Review Board, and offers training, technical assistance, and resources to help communities understand and manage dam-related risks.

Community Development Block Grant – Disaster Recovery (CDBG-DR): The U.S. Department of Housing and Urban Development (HUD) offers CDBG-DR funding to assist states, counties, and cities in rebuilding after Presidentially declared disasters. These grants, made available through supplemental congressional appropriations, are designed to support recovery efforts in areas with significant unmet needs, particularly low-income communities. CDBG-DR funds can be used for a wide range of activities, helping jumpstart recovery in places that may lack sufficient local resources to rebuild effectively.

Community Development Block Grant – Mitigation (CDBG-MIT): The CDBG-MIT program, established by Congress in 2018, provides nearly $16 billion in funding to help communities affected by disasters in 2015–2018 implement strategic, high-impact mitigation projects. These efforts aim to reduce long-term risks to life, property, and critical infrastructure by enhancing resilience and minimizing future disaster losses. CDBG-MIT encourages data-driven investments, capacity-building for hazard analysis, and policy adoption that reflects local priorities. Grantees must submit an Action Plan before using funds, and the program promotes coordination across federal, state, and local levels to maximize impact through partnerships and leveraging other resources.

State Funding Sources

Emergency Management Performance Grants (EMPG): EMPG funding is provided by FEMA through the State of New Mexico, to assist state, local, territorial, and tribal governments with preparedness activities for all hazards. Funding can be utilized to support the National Preparedness Goal (NPG), which in turn supports a comprehensive all-hazards emergency preparedness system.

New Mexico Drought Task Force: The New Mexico Drought Task Force coordinates statewide efforts to monitor and respond to drought conditions, recognizing the growing threat climate change poses to the state's water resources. Scientists project that New Mexico will face a 25% reduction in water availability over the next 50 years, with more extreme and variable precipitation, declining snowpack and aquifer recharge, and increased wildfire and erosion risks. Established in 2002, the Task Force includes leaders from over 10 state agencies and is chaired by the State Engineer, with support from the State Climatologist.

The Community Assistance Program – State Support Services Element (CAP-SSSE): CAP-SSSE provides funding to states to support communities participating in the National Flood Insurance Program (NFIP). Administered through FEMA and authorized by federal flood legislation, the program helps states deliver technical assistance, evaluate local floodplain management practices, and build capacity to meet NFIP requirements. States receiving CAP-SSSE funds must contribute a 25% non-federal match and agree to specific activities outlined in a negotiated agreement with FEMA.

Local, Private, and Non-Profit Funding Sources

New Mexico Fire Adapted Funding Library: This database was developed to support New Mexico communities, landowners, and practitioners by identifying possible sources of funding for wildfire adaptation, risk reduction, and recovery efforts.

Wildlife Conservation Society - Climate Adaptation Fund: The WCS Climate Adaptation Fund supports innovative, science-driven projects that help wildlife and ecosystems adapt to climate change. Funded by the Doris Duke Charitable Foundation and administered by the

Wildlife Conservation Society, the program prioritizes two types of grants: Adaptation Implementation, which accelerates learning through novel approaches, and Adaptation Mainstreaming, which expands proven strategies across broader landscapes. The Fund aims to scale effective interventions and promote resilience for both nature and the communities that depend on it.

MITIGATION ACTION AND FUNDING CROSSWALK

The following table displays Doña Ana County and participating jurisdictions mitigation actions with potential funding sources for implementation.

Category	Description	Applicable Jurisdictions and Mitigation Action	Potential Funding Sources
Public Education & Outreach	Countywide hazard education campaigns (all hazards, drought, wildfire, flood, weather). Includes signage, brochures, social media, "Turn Around Don't Drown," Americans with Disabilities Act (ADA)/language access, National Flood Insurance Program (NFIP) awareness, defensible space, and water conservation.	Doña Ana County (A1, A11, A12, A14); Anthony (B9–B11, B13); Las Cruces (C1, C3, C7, C14, C16, C17, C19); Sunland Park (D6, D7, D9); Elephant Butte Irrigation District (EBID) (E8, E9, E11); New Mexico State University (NMSU) (F5–F8, F12, F13, F15); Mesilla (G6, G10–G12, G14); Hatch (H2, H3)	HMGP, EMPG, Fire Prevention & Safety (FP&S), Fire Adapted Communities New Mexico (FAC NM), CDBG, International Code Council (ICC), State forestry and water programs
Flood Warning & Emergency Communications	Expand and integrate flood warning systems (weather stations, gages, sensors, real-time forecasting). Improve Integrated Public Alert & Warning System (IPAWS), mass notifications, and interoperability.	Doña Ana County (A9, A14); Anthony (B6, B7, B13); Las Cruces (C2, C5, C6, C19); Sunland Park (D9); EBID (E11); NMSU (F9, F15); Mesilla (G3, G8, G14)	HMGP, EMPG, United States Geological Survey (USGS), Environmental Protection Agency (EPA) Environmental Justice grants, Department of Transportation (DOT) Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation (PROTECT)

Category	Description	Applicable Jurisdictions and Mitigation Action	Potential Funding Sources
Dam & Infrastructure Safety	Assess, repair, and manage dams and aging infrastructure. Includes dam breach analyses, Emergency Action Plans (EAPs), dam safety programs, and storm drain inspections.	Doña Ana County (A2–A5, A10); Anthony (B8); Las Cruces (C4); EBID (E1, E6); Mesilla (G2)	FEMA National Dam Safety Program, HMGP, New Mexico Dam Safety Bureau, CDBG, EPA Clean Water State Revolving Fund (SRF), New Mexico Water Trust Board
Drainage & Flood Mitigation Projects	Implement drainage/stormwater projects (channels, basins, storm drains, arroyos, flood control). Includes Chaparral, Rincon, Vado, Sunland Park neighborhoods, EBID watershed, Las Cruces green infrastructure, Mesilla and Hatch drainage.	Doña Ana County (A6–A8); Anthony (B1, B4); Las Cruces (C8–C13, C15); Sunland Park (D1–D5); EBID (E2–E5, E7); NMSU (F3, F10); Mesilla (G2); Hatch (H2)	HMGP, FMA, New Mexico Water Trust Board, United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Watershed and Flood Prevention Operations (PL-566)/Emergency Watershed Protection (EWP), DOT PROTECT, Land and Water Conservation Fund (LWCF), National Fish and Wildlife Foundation (NFWF), CDBG
Repetitive Problem Areas Database (GIS)	Countywide Geographic Information Systems (GIS)-enabled database of repetitive flooding/problem areas across jurisdictions.	Doña Ana County (A13); Anthony (B12); Las Cruces (C18); Sunland Park (D8); EBID (E10); NMSU (F14); Mesilla (G13)	HMGP, EMPG, CDBG
Drought & Water Conservation	Promote drought awareness, xeriscaping, irrigation efficiency, and water conservation policies. Expand partnerships with EBID, NMSU, and local water utilities.	Doña Ana County (A11, A12); Anthony (B10); Las Cruces (C3, C17); EBID (E9); NMSU (F6–F8, F12); Mesilla (G11); Hatch (H3)	State water trust programs

Category	Description	Applicable Jurisdictions and Mitigation Action	Potential Funding Sources
Wildfire Mitigation & Defensible Space	Expand defensible space programs, Community Wildfire Protection Plans (CWPPs), hazardous fuels reduction, and public education campaigns on wildfire risk.	Doña Ana County (A11); Anthony (B10); Las Cruces (C14, C16); Sunland Park (D6, D7); NMSU (F12, F13); Mesilla (G12)	HMGP, United States Forest Service (USFS), Bureau of Land Management (BLM), FAC NM, FP&S, State forestry programs
Building Codes & Land Use	Update building codes, zoning ordinances, and floodplain regulations. Emphasize elevation standards, wildfire construction codes, and ADA/language accessibility.	Doña Ana County (A1, A12); Anthony (B9, B10); Las Cruces (C1, C17); Mesilla (G10, G11)	HMGP, NFIP Community Rating System (CRS), CDBG, ICC, State building code programs
Backup Power & Critical Facilities	Install or upgrade backup power at critical facilities (water systems, emergency shelters, health facilities, schools). Expand energy resilience with solar + storage.	Doña Ana County (A15); Las Cruces (C20); Sunland Park (D10); EBID (E12); NMSU (F11); Mesilla (G15)	HMGP, Building Resilient Infrastructure and Communities (BRIC**), Department of Energy (DOE) Grid Resilience Programs, State energy programs
Green Infrastructure & Climate Adaptation	Integrate green infrastructure (bioswales, rain gardens, permeable surfaces), climate adaptation policies, and low-impact development standards into planning.	Las Cruces (C8, C13, C15); NMSU (F3, F10); Mesilla (G2, G7); Hatch (H2)	HMGP, DOT PROTECT, LWCF, NFWF
Research, Data, & University Partnerships	Expand NMSU/EBID research programs for climate, weather, hydrology, and agriculture. Incorporate into public policy and local hazard planning.	NMSU (F1–F15); EBID (E8–E11); Doña Ana County (A13); Las Cruces (C18)	USDA, NOAA, HMGP, State higher education resilience funds

* Please note that funding availability and program eligibility are subject to change as a result of executive, legislative, or judicial action. Because the universe of potential funding streams is large and continually evolving, this guide cannot catalogue every possible source. It identifies funding programs and mechanisms that were current and considered viable as of the date of publication; users should verify eligibility and availability before applying.

** FEMA's announced termination/repurposing of the BRIC program is the subject of litigation brought by a coalition of states; a federal court has issued a preliminary injunction preventing the federal government from reallocating BRIC funds while the litigation is pending.

APPENDIX G: NON-NATURAL HAZARD MITIGATION ACTIONS

The actions below were carried forward from the prior mitigation plan but were not included in the updated mitigation strategy because they address non-natural hazards, which fall outside the scope of this plan. They are provided here for reference and for future tracking.

Table 48: Basic Information

Jurisdiction	Action	Action Status	Mitigation Action Name	Action Description	Action Benefits	FEMA Community Lifeline Alignment
City of Las Cruces	C20	Carryover	Reduce Hazardous Material Dumping	Assist Doña Ana County and partner agencies in documenting and monitoring hazardous material dumping hotspots to strengthen enforcement and prevention efforts.	Reduces environmental contamination, protects public health, and improves enforcement against illegal dumping activities.	Safety and Security; Hazardous Materials; Water Systems
Town of Mesilla	G15	Carryover	Reduce Hazardous Material Dumping	Enforce hazardous material disposal regulations and strengthen monitoring within town limits to prevent illegal dumping.	Protects public health, prevents soil and water contamination, and reduces environmental hazards in the community.	Safety and Security; Hazardous Materials

Table 49: Implementation Information

Jurisdiction	Action	What is the primary and any secondary hazards that the action mitigates?	What is the primary and any secondary goals that the action addresses?	What agencies will lead the implementation of this action?	What agencies will support the implementation of this action?	What are the potential sources of funding that can support this action?
City of Las Cruces	C20	Hazmat	Goal 3	City of Las Cruces Police Department / Codes Enforcement	EPA / NMED	FMAG, EMPG
Town of Mesilla	G15	HazMat	**Goal 4;** Goal 3	Code Enforcement	Fire Dept.	FMAG, EMPG

Table 50: Action Prioritization

Jurisdiction	Action	Estimated Cost	Estimated Timeline	Risk Reduction	Funding Availability	Cost Effectiveness	Community Leadership and Support	Co-Benefits	Total	Priority
City of Las Cruces	C20	<$50k	< 1 year	3 - Moderate impact	1 - No funding identified	2 - Moderate cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	12	Medium
Town of Mesilla	G15	<$50k	1 - 5 years	3 - Moderate impact	2 - Funding identified; not secured	3 - High cost/benefit ratio	3 - Moderate support	3 - Multiple co-benefits	14	Medium

APPENDIX H: PROCESS DOCUMENTATION

01 SECTION HEADER (MEETING #1)

Welcome to the Planning Team email

Local Planning Team Meeting #1 invitation

Local Planning Team Meeting #1 agenda

Local Planning Team Meeting #1 notes

From:	Kymmie Scott
To:	Mario Juarez-Infante, PE; Chief Vanessa Ordonez (APD); Mayor Diana Murillo
Cc:	Amanda Bowen; Joy V. Chavez; Kyle Karsjen; Bradley Nuding; Tory Littlefield
Subject:	Doña Ana AHMP: Welcome to the Doña Ana AHMP Planning Team
Date:	Tuesday, April 15, 2025 9:04:00 AM
Attachments:	image001.png image002.png

Dear Participating Jurisdiction representatives,

Thank you so much for stepping into this important project—we truly appreciate your time and commitment to supporting hazard mitigation planning for your community. I know you're joining the process a little later than some of the other Local Planning Team members, so I wanted to send a quick note to help catch you up and make sure you're fully up to speed.

I've added you to the project's Microsoft Teams site this morning. Sometimes access takes a bit to go into effect, but you should have access by lunchtime today. You can access the Teams site here: Doña Ana AHMP | General | Microsoft Teams

Once you're in, I encourage you to start with the Administrative folder, where you'll find a recording of Planning Meeting #1. This will give you a solid overview of the project's goals, timeline, and planning process. You'll also find social media graphics and sample post language in the Public Engagement Materials folder to help support distribution of the Community Survey, which will remain open through April 30. Please help us get the word out broadly—especially through trusted partners and networks that engage underserved populations.

To support your public outreach, the County has also launched a project-specific webpage that can be referenced in your communications with residents and stakeholders. You can view it here: https://www.donaanacounty.org/departments/law-safety/office-of-emergency-management/all-hazards-mitigation-plan-update. The page will be updated throughout the planning process and will house key resources, updates, and links to things like the survey.

If you haven't already been contacted by your assigned Tidal Basin planner, you will be soon. Your first task will be to work together to complete the first two tabs of the HMP Tool:

- Community Capabilities Assessment
- Status of Prior Mitigation Actions

Our hope is to have these first two tabs completed by the end of this week, though it is understood that we may need to push this deadline back a week or so.

Your assigned planner will be your primary point of contact moving forward, but I'm always available if you have questions, run into any challenges, or want to talk through anything. Thanks again for jumping in. Your participation is vital to making this plan meaningful and actionable for your community, and we're grateful to have you on the team.

Kindly,
Kymmie

Kymmie Scott, CEM
Project Manager and Tribal Relations Specialist
State, Local, and Commercial Division

Be stronger than before

M: 970.531.1577 kymmie.scott@tidalbasingroup.com
tidalbasingroup.com

TIDAL BASIN

My working hours may not be your working hours. Please do not feel obligated to reply outside of your normal work schedule.

Kymmie Scott

Subject:	Doña Ana AHMP Planning Meeting #1 (Kickoff)
Location:	Microsoft Teams Meeting
Start:	Thu 3/27/2025 1:00 PM
End:	Thu 3/27/2025 2:30 PM
Recurrence:	(none)
Meeting Status:	Meeting organizer
Organizer:	Kymmie Scott
Required Attendees:	Kymmie Scott; Kyle Karsjen; Tory Littlefield; Bradley Nuding; Amanda Bowen; Joy V. Chavez; Michael A. Garza; mshreves@villageofhatch.org; Tim Pitts; lorenzoa@mesillanm.gov; Andrew Bowen
Optional Attendees:	Delyce Maciel

Microsoft Teams Need help?

Join the meeting now

Meeting ID: 237 278 150 748

Passcode: Hz2CT7gY

Dial in by phone

+1 914-294-5479,,909129555# United States, Westchester

Find a local number

Phone conference ID: 909 129 555#

For organizers: Meeting options | Reset dial-in PIN

Doña Ana County AHMP Kickoff (LPT Meeting #1) Agenda

Date: March 27, 2025, 1:00 p.m. MDT

Microsoft Teams w/PowerPoint

- Welcome & Introductions
- The Mitigation Planning Process
- Community Reporting and the HMP Tool
- Next Steps
- Questions
- Adjourn

DOÑA ANA HAZARD MITIGATION PLAN 2025 UPDATE

Stakeholder Kickoff Meeting – Thursday, March 27, 2025

Time: 1:00 p.m. MST

Meeting Attendance				
#	Last Name	First Name	Title	Organization
1.	Bowen	Amanda	Director of Emergency Management	Doña Ana County OEM
2.	Chavez	Joy	Emergency Manager Coordinator	Doña Ana County OEM
3.	Garza	Michael	Engineer Supervisor	Doña Ana County Flood Commission
4.	Bowen	Andrew	Interim Assistant Vice President of Public Safety	NMSU
5.	Maciel	Delyce	Director of Human Resources & Safety	Elephant Butte Irrigation District
6.	Scott	Kymmie	Project Manager	Tidal Basin
7.	Karsjen	Kyle	Project Manager	Tidal Basin
8.	Nuding	Bradley	Emergency Management Consultant	Tidal Basin
9.	Littlefield	Tory	Emergency Management Consultant	AC Disaster

Be stronger than before

Discussion

- **Meeting Introduction**
  - **Kymmie and Amanda** introduced the meeting, emphasizing the importance of cooperation and coordination in the mitigation planning process.
  - Amanda expressed gratitude for the participants' involvement and highlighted the significance of incorporating their projects into the plan.
- **Importance of Cooperation**
  - Amanda stressed that the success of the mitigation plan relies heavily on cooperation and coordination among all entities involved.
  - She expressed hope that both present and future participants would contribute their projects to the plan, ensuring a collaborative effort.
- **Team Introductions**
  - **Kymmie Scott**: Project manager for Tidal Basin, with over 16 years of experience in emergency management, including roles in county EMA, tribal EM, and search and rescue. She expressed her enthusiasm for supporting the project.
  - **Kyle Karsjen**: Project manager for Tidal Basin, shared his extensive experience in emergency management since 2003, including work in state government and consulting. He highlighted his previous work on mitigation plans across the country, including New Mexico.
  - **Bradley Nuding**: Joined Tidal Basin in January, introduced himself and shared his background in county emergency management in Maine. He mentioned his experience overseeing the revision of a hazard mitigation plan and expressed his eagerness to contribute to the project.
  - **Tory Littlefield**: Represents A/C Disaster Consulting, introduced herself and discussed her 10 years of experience in emergency management at local, regional, and private consulting levels. She expressed her excitement about working on the project and getting to know the community.
- **Dona Ana County Representatives**
  - **Michael Garza**: Engineer supervisor for the Dona Ana County Flood Commission, discussed the county's preparedness for flooding. He noted that while they are more prepared than during the last iteration of the All-Hazard Plan, complete preparedness for floods is challenging.
  - **Andrew Bowen**: Interim assistant vice president of public safety at New Mexico State University, highlighted their preparedness for fire hazards. He mentioned that while they are well-prepared for fires, there is always room for improvement in flood preparedness.
  - **Joy Chavez**: Discussed their preparedness for extreme weather and cyber hazards. She noted that while they are well-prepared for extreme weather, there is a need for significant improvement in cyber preparedness.
- **Mitigation Planning Process Overview**
  - **Plan Life Cycle**: Kymmie explained that the mitigation plan has a five-year life cycle and needs to be updated and approved before the end of that cycle. The last plan was approved in 2021, making it essential to update the plan to maintain eligibility for federal funding.
  - **Benefits of Mitigation**: Kymmie highlighted the benefits of hazard mitigation, including risk reduction, increased community resilience, interagency collaboration, and eligibility for federal funding. She emphasized that these benefits make the planning process crucial for the community.

- **Focus Areas**: Kymmie outlined the focus areas for the plan update, including reporting on community progress, updating hazard information, adding climate change data, ensuring inclusion of underserved communities, and tightening the hazard mitigation strategy.

- **Hazard Identification and Inclusion**
  - **Considerations for Inclusion**: Kymmie explained the criteria for hazard inclusion, such as whether the hazard is natural or human-caused, its frequency of occurrence, historical impact, potential future impact, population and infrastructure vulnerability, economic impact, and feasibility of mitigation strategies.
  - **Current Hazards**: Kymmie listed the current hazards identified for the plan, including dam failure, drought, extreme temperatures, flooding, severe wind, thunderstorms, and wildfire. She invited participants to suggest any additional hazards to consider.
  - **Cyber Hazard**: Kymmie acknowledged Joy's mention of cyber hazards and noted that while the focus is typically on natural hazards, non-natural hazards can also be included if deemed important by the community.
- **Participating Jurisdictions Requirements**
  - **Meeting Attendance**: Kymmie stated that participating jurisdictions are required to attend three planning meetings, each around an hour long, to stay engaged in the process and contribute to the plan's development.
  - **Community Capabilities**: Jurisdictions need to update the status of their community capabilities, including planning, regulatory, administrative, technical, financial, and education and outreach areas. This helps in understanding the current capabilities and identifying gaps.
  - **Public Surveys**: Jurisdictions are responsible for sharing public surveys and public review drafts with their communities to gather input and ensure that the plan reflects the community's needs and concerns.
  - **New Mitigation Actions**: Jurisdictions must develop at least one new or continuing hazard mitigation action, review and provide input on the plan elements, and facilitate the adoption of the plan through their governing body once approved by FEMA.
- **HMP Tool Introduction**
  - **Primary and Secondary POCs**: Kymmie explained that each jurisdiction will be assigned a primary and secondary point of contact from Tidal Basin to assist with filling out the HMP tool and addressing any questions or concerns.
  - **HMP Tool Functionality**: The HMP tool is a workbook designed to collect and share information in phases. Tidal Basin will prepopulate as much information as possible, and jurisdictions will review, validate, and add any additional information needed.
  - **FEMA Requirements**: The HMP tool helps meet FEMA requirements and serves as a resource for jurisdictions to track progress on mitigation actions and use in future planning processes.
- **Community Capability Reporting**
  - **Reporting Areas**: Kymmie outlined the four core areas for community capability reporting: planning and regulatory, administrative and technical, financial, and education and outreach. Each area helps understand the jurisdiction's current capabilities and identify gaps.
  - **Accurate Information**: Kymmie emphasized that the reporting process is not a test and encouraged participants to provide accurate information about their capabilities. This helps in identifying areas for improvement and potential mitigation actions.
  - **Capability Gaps**: Kymmie noted that identifying capability gaps can lead to the

development of new mitigation actions. Jurisdictions should consider areas where they lack capabilities and use this information to create actionable plans for improvement.

- **Prior Mitigation Action Reporting**
  - **Prior Actions**: Kymmie discussed the importance of reporting on prior mitigation actions, including updating the status of previous actions and identifying any barriers or changes in priorities. She emphasized the need for thoughtful development of new actions.
- **Public Engagement**
  - **Webpage and Survey**: Kymmie highlighted the importance of public engagement in the mitigation planning process. She mentioned the creation of a webpage on the OEM website and a community survey to gather input from residents.
- **Timeline and Next Steps**
  - **Next Steps**: Kymmie outlined the timeline and next steps for the project, including the capabilities assessment, review of prior mitigation actions, NFIP compliance, hazard ranking, and development of the mitigation strategy. She emphasized the importance of collaboration and communication throughout the process.
- **Meeting Conclusion**
  - **Conclusion**: Amanda and Kymmie expressed their excitement for the project and gratitude for the participants' involvement. Kymmie provided an overview of the next steps and encouraged participants to reach out with any questions or concerns.

Follow-up Tasks

- **Follow-up Tasks**
  - **Community Survey**: Launch the community survey and distribute it to participating jurisdictions for dissemination to their communities. (Kymmie and team)
  - **Community Survey Questions**: Provide any additional questions for the community survey within the next 24 hours. (All participants)
  - **Website Launch**: Launch the OEM website page with core mitigation information and mechanisms for community participation. (Kymmie and team)
  - **Planner Assignments**: Reach out to assigned jurisdictions to start the process of filling out the community capability reporting tool. (Planners)
  - **Recording and Slides**: Send out the recording of the meeting, the slide deck, and notes to all participants. (Kymmie)
  - **Hazard List Updates**: Notify Kymmie if there are any changes to the hazard list within the next few days. (All participants)

- Meeting adjourned at 1:30.

Upcoming Meetings

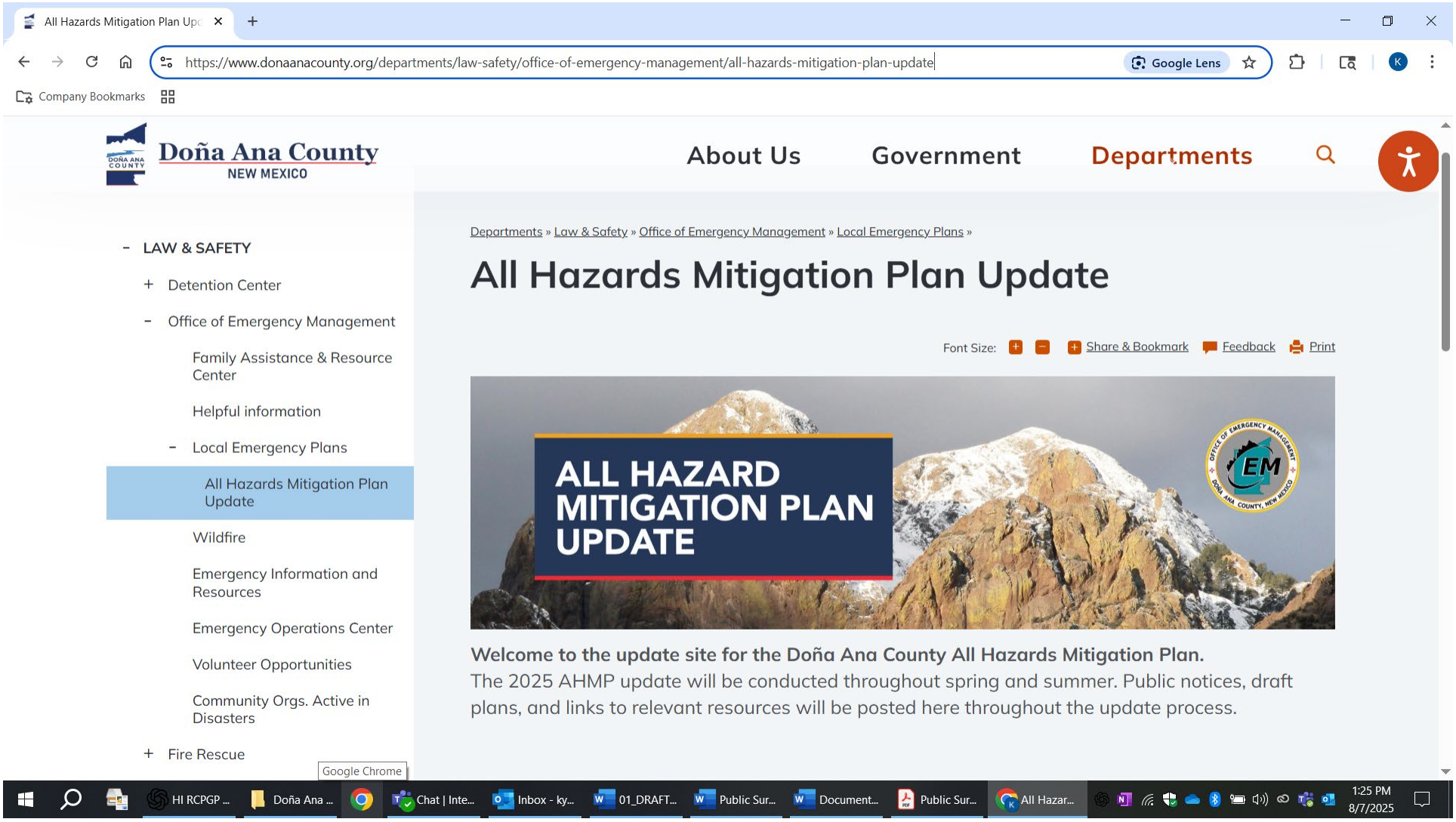
TBD

02 SECTION HEADER (WEBSITE)

Website screenshot

Website launch email

Doña Ana County Hazard Mitigation Plan Update website: https://www.donaanacounty.org/departments/law-safety/office-of-emergency-management/all-hazards-mitigation-plan-update



All Hazards Mitigation Plan Upc

https://www.donaanacounty.org/departments/law-safety/office-of-emergency-management/all-hazards-mitigation-plan-update

Google Lens

Company Bookmarks

Doña Ana County
NEW MEXICO

About Us Government Departments

+ Fire Rescue

+ Sheriff's Office

What is the Doña Ana County All Hazards Mitigation Plan?
The Doña Ana County All Hazards Mitigation Plan (AHMP) identifies natural hazards that may impact the County and its jurisdictions with associated action items to reduce the future risk of these hazards on the County.

Public Notices and Project Updates

- Citizen Survey

HOW CAN YOU PARTICIPATE IN THE UPDATE? +

WHY HAZARD MITIGATION PLANNING? +

REFERENCES AND RESOURCES +

2021 Doña Ana County All Hazards Mitigation Plan

The 2021 AHMP assessed the risk of dam failure, drought, extreme cold, flooding, severe wind, thunderstorms (lightning and hail), and wildfire. The AHMP

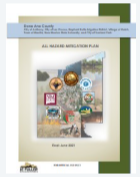


HI RCPGP ... Doña Ana ... Chat | Inte... Inbox - ky... 01_DRAFT... Public Sur... Document... Public Sur... All Hazar...

1:25 PM
8/7/2025

2021 Doña Ana County All Hazards Mitigation Plan

The 2021 AHMP assessed the risk of dam failure, drought, extreme cold, flooding, severe wind, thunderstorms (lightning and hail), and wildfire. The AHMP encompasses Doña Ana County, City of Las Cruces, Village of Hatch, Town of Mesilla, City of Sunland Park, Elephant Butte Irrigation District, New Mexico State University, and City of Anthony.



Free viewers are required for some of the attached documents.
They can be downloaded by clicking on the icons below.

Contact
For more information on the 2025 AHMP Update, please contact:

Office of Emergency Management

oem@donaana.gov

From:	Kymmie Scott
To:	Amanda Bowen; Andrew Bowen; Delyce Maciel; Joy V. Chavez; Lorenzo Astorga; Manny Shreves; Mario Juarez-Infante, PE; Michael Garza; Tim Pitts
Cc:	Kyle Karsjen; Bradley Nuding; Tory Littlefield
Subject:	Doña Ana AHMP: Website launched
Date:	Monday, April 14, 2025 7:55:00 AM
Attachments:	image001.png image002.png

Dear Local Planning Team,

We're pleased to share that the **Doña Ana AHMP project webpage has officially launched** and can now be accessed at: All Hazards Mitigation Plan Update | Doña Ana County, NM

You are welcome to share this link with residents and other stakeholders who may be interested in learning more about the project. The webpage will be updated regularly throughout the planning process with new information, key dates, and public engagement materials. If there's specific information that you'd like to see placed on the webpage, please reach out to me or Amanda Bowen.

Thanks again for your continued support!

Kindly,
Kymmie

Kymmie Scott, CEM
Project Manager and Tribal Relations Specialist
State, Local, and Commercial Division

Be stronger than before

M: 970.531.1577 kymmie.scott@tidalbasingroup.com
tidalbasingroup.com

TIDAL BASIN

My working hours may not be your working hours. Please do not feel obligated to reply outside of your normal work schedule.

03 SECTION HEADER (PUBLIC SURVEY)

Public Survey Images (English and Spanish)

Public Survey Social Media Text (English and Spanish)

Public Survey Flyer English

Public Survey Flyer Spanish

Public Survey Outreach Email

Public Survey Social Post Proofs 1

Public Survey Social Post Proofs 2

Public Survey Results


Let your voice be heard!
HAZARD MITIGATION PLAN UPDATE
Take our survey to share your thoughts into creating a more resilient community.
OFFICE OF EMERGENCY MANAGEMENT
EM
DONA ANA COUNTY, NEW MEXICO


We want to hear from you!
OFFICE OF EMERGENCY MANAGEMENT
EM
DOÑA ANA COUNTY, NEW MEXICO
HAZARD MITIGATION PLAN UPDATE
Take our survey to share your thoughts into creating a more resilient community.


¡Deja que tu voz se escuche!
ACTUALIZACIÓN DEL PLAN DE MITIGACIÓN DE RIESGOS
Participe en nuestra encuesta para compartir sus ideas sobre cómo crear una comunidad más resiliente.
OFFICE OF EMERGENCY MANAGEMENT
EM
DONA ANA COUNTY, NEW MEXICO


¡Queremos saber de ti!
OFFICE OF EMERGENCY MANAGEMENT
EM
DOÑA ANA COUNTY, NEW MEXICO
ACTUALIZACIÓN DEL PLAN DE MITIGACIÓN DE RIESGOS
Participe en nuestra encuesta para compartir sus ideas sobre cómo crear una comunidad más resiliente.


Posts
dacpublicsafety
dacpublicsafety
We want to hear from you!
HAZARD MITIGATION PLAN UPDATE
Take our survey to share your thoughts into creating a more resilient community.
Liked by donaanacountyinmates and others
dacpublicsafety We Want to Hear From You!
The Office of Emergency Management is updating the All Hazards Mitigation Plan, and is asking for your help... more


Posts
dacpublicsafety
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Participe en nuestra encuesta para compartir sus ideas sobre cómo crear una comunidad más resiliente.
Liked by donaanacountyinmates and others
dacpublicsafety We Want to Hear From You!
The Office of Emergency Management is updating the All Hazards Mitigation Plan, and is asking for your help... more

Public Survey Social Media Post Language

Help us create a safer, stronger Doña Ana County! Share your ideas in our quick, 10-minute survey. Your responses are private, and every opinion matters—whether you've lived here for years or just arrived.

Visit https://forms.office.com/r/t1QwUZDraD (or scan the QR code) before June 30, 2025.

Questions? Email oem@donnanacounty.com. We appreciate your time and input!

¡Ayúdenos a crear un condado de Doña Ana más seguro y fuerte! Comparta sus ideas en nuestra encuesta de 10 minutos. Sus respuestas son privadas, y cada opinión cuenta, ya sea que haya vivido aquí toda su vida o que se haya mudado recientemente.

Visite https://forms.office.com/r/t1QwUZDraD (o escanee el código QR) antes del 30 de junio de 2025.

¿Preguntas? Escríbanos a oem@donnanacounty.com. ¡Gracias por su tiempo y su participación!

HAZARD MITIGATION PLAN UPDATES

We want to hear from you!

HELP US BUILD A RESILIENT DONA ANA COUNTY

Take our survey to share your thoughts on creating a more resilient community.

WHY YOUR INPUT MATTERS

Every perspective is valuable. Whether you've lived in Doña Ana County your whole life or just moved here, your input helps us build safer, stronger communities.

Identify Community Natural Hazards and Risks	Help us understand our communities' risks.
Enhance Mitigation Plans	Shape effective hazard mitigation strategies and initiatives
Foster Resilience	Create a culture of preparedness

QUICK AND EASY



Fast

Complete in just 10 minutes.



Confidential

Your responses are private.



Accessible

Scan the QR code below or visit https://forms.office.com/r/t1QwUZDraD.

Deadline

June 30, 2025

Doña Ana County Multi-Jurisdictional Hazard Mitigation Plan Update

For questions or assistance, contact us at oem@donnanacounty.gov.

Citizen Survey QR Code

HAZARD MITIGATION PLAN UPDATES

¡Queremos saber de ti!

¡Ayúdenos a Construir un Condado de Doña Ana Resiliente!

Complete la encuesta de preparación para emergencias hoy.

Por qué es Importante su Opinión

Toda perspectiva es valiosa. Ya sea que haya vivido en el condado de Doña Ana toda su vida o se haya mudado recientemente, su opinión nos ayuda a construir comunidades más seguras y sólidas.

Identificar los peligros y riesgos naturales de la comunidad	Ayúdenos a comprender los riesgos de nuestras comunidades
Mejorar los planes de mitigación	Diseñar estrategias e iniciativas eficaces de mitigación de riesgos
Fomentar la resiliencia	Crear una cultura de preparación

Rápida y Fácil

Rápido
Sólo 10 minutos para completarlo.

Confidencial
Sus respuestas son privadas.

Accesible
Escanee el código QR a continuación o https://forms.office.com/r/t1QwUZDraD.

Fecha límite
30 de junio de 2025

Doña Ana County Multi-Jurisdictional Hazard Mitigation Plan Update
Para preguntas o asistencia, contáctenos en oem@donnanacounty.gov

Código QR de la encuesta ciudadana

Kymmie Scott

From: Joy V. Chavez <joyc@donaana.gov>
Sent: Wednesday, July 9, 2025 12:29 PM
To: Kymmie Scott
Cc: Amanda Bowen
Subject: "EXTERNAL" Hazard Mitigation Plan Update Outreach Summary
Attachments: Hazard Mitigation Plan Update Pic_English.png; Hazard Mitigation Plan Update Pic_Spanish.png

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Kymmie,
Just wanted to share a quick summary of the outreach that was done for the Hazard Mitigation Plan update. We kicked things off by going before the Board of County Commissioners meeting to announce the update and share the link for community input. We also attended the City of Anthony's Board of Trustees meeting to pass along the info there as well. In addition, we posted the update and participation link on our social media pages to help spread the word more broadly. An email was also sent out to our local partners to encourage their involvement and help get the word out.

Attached are some screenshots from the outreach for your reference. Please let me know if you have any questions or need anything else!

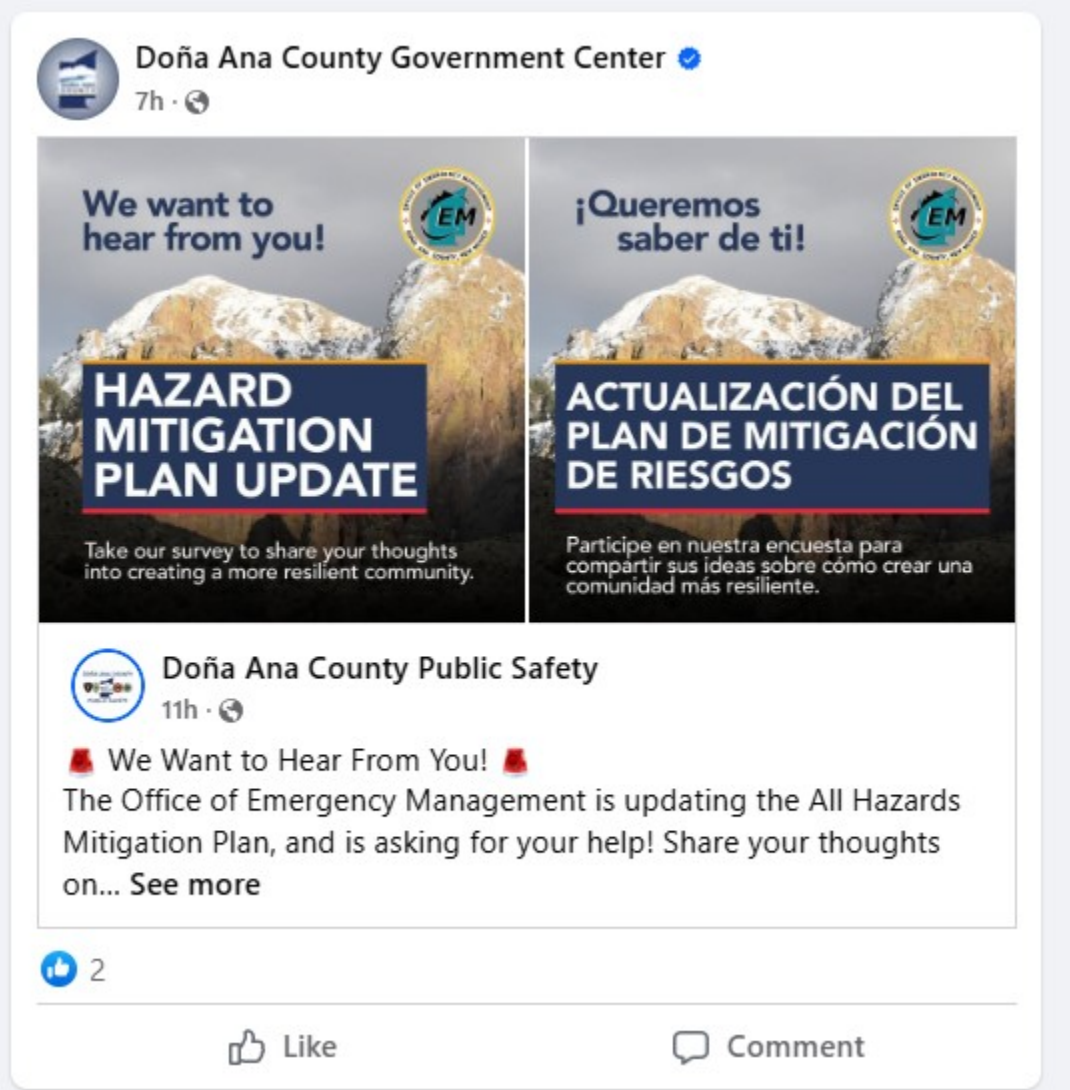
Joy Chavez
Emergency Management Coordinator
575.647.7900
575.728.4360
joyc@donaana.gov
Leading with Preparedness, Responding with Excellence

OFFICE OF EMERGENCY MANAGEMENT

Kymmie Scott

From: Amanda Bowen <amandab@donaana.gov>
Sent: Thursday, April 24, 2025 5:49 PM
To: Kymmie Scott
Subject: "EXTERNAL" RE: Doña Ana AHMP – Project Check-In and Upcoming Tasks

From our Facebook page:



Amanda Bowen
Emergency Manager
Doña Ana County/City of Las Cruces Office of Emergency Management

---

From: Kymmie Scott <kymmie.scott@tidalbasingroup.com>
Sent: Friday, April 11, 2025 8:59 AM
To: Amanda Bowen <amandab@donaana.gov>; Andrew Bowen <abowen@nmsu.edu>; Delyce Maciel <dmaciel@ebid-nm.org>; Joy V. Chavez <joyc@donaana.gov>; Lorenzo Astorga <lorenzoa@mesillanm.gov>; Manny Shreves <mshreves@villageofhatch.org>; Mario Juarez-Infante, PE <mario.juarez-infante@sunlandpark-nm.gov>; Michael A.

Garza <michaelg@donaana.gov>; Tim Pitts <tpitts@lascruces.gov>
Cc: Kyle Karsjen <kyle.karsjen@tidalbasingroup.com>; Bradley Nuding <bradley.nuding@tidalbasingroup.com>; Tory Littlefield <tlittlefield@acdisaster.com>
Subject: Doña Ana AHMP – Project Check-In and Upcoming Tasks

Dear Local Planning Team,

I hope this message finds you well and enjoying the beautiful spring weather!

I wanted to check in with a few project updates and reminders:

- **Tidal Basin Point of Contact (POC):** If you haven't yet heard from your assigned Tidal Basin planner, you should by the end of the day today. They'll be reaching out to help support your jurisdiction in completing the HMP Tool sections Community Capabilities and Prior Mitigation Strategy. The target date to complete these tabs is next Friday, April 18.
- **Draft Plan Progress:** Our team has begun drafting the Introduction and Hazard Identification and Risk Assessment (HIRA) sections. We anticipate sharing a draft for your review by mid-May, at which point we'll look to schedule Planning Meeting #2 to walk through the content, validate our findings, and gather deeper local insight.
- **Community Survey Outreach:** As a reminder, please help distribute the community survey using the materials attached to this email. Included are:
    - Printable/attachable flyers
    - Social media graphics
    - Sample post language for social media or your jurisdiction's website

  We encourage you to share these materials broadly—and especially with individuals, organizations, or networks that engage with underserved populations, to ensure inclusive community input. If you run into any issues or need additional support, please don't hesitate to reach out to me or your assigned planner. **Important:** Please **forward me copies of your outreach efforts** (email forwards or screenshots of social media posts) so we can document your contributions—this is a requirement for FEMA as part of the planning process. Thank you for helping us get this important phase of the project off the ground!
- **Jurisdiction Logos:** Please send me a high-resolution version of your jurisdiction's logo so we can include it on the plan cover and outreach materials.
- **New Hazard – Dust Storms:** We've proposed including dust storms in the plan update due to their increasing frequency and impact across New Mexico. The County is aligned with this addition. Please let us know if you have any concerns with moving forward on this.

Thank you again for your partnership and support—we're excited to keep working with you and your communities throughout this project.
Wishing you a wonderful weekend!

Kindly,
Kymmie

Kymmie Scott, CEM
Project Manager and Tribal Relations Specialist
State, Local, and Commercial Division

Be stronger than before

M: 970.531.1577 kymmie.scott@tidalbasingroup.com
tidalbasingroup.com



My working hours may not be your working hours. Please do not feel obligated to reply outside of your normal work schedule.

Kymmie Scott

From: Amanda Bowen <amandab@donaana.gov>
Sent: Thursday, April 24, 2025 5:55 PM
To: Delyce Maciel; Andrew Bowen; Lorenzo Astorga; Manny Shreves; mario.juarez-infante; Michael A. Garza; Tim Pitts; vordonez
Subject: "EXTERNAL" All Hazard Mitigation Plan
Attachments: Social Media post language Eng and Span.docx; DonaAna-survey-social-SP_v2_2.jpg; DonaAna-survey-social-SP_v2_1.jpg; DonaAna-survey-social_v2_2.jpg; DonaAna-survey-social_v2_1.jpg; Doña Ana Survey Flyer_Spanish.docx; Doña Ana Survey Flyer_English.docx

Hi All,

Just a quick reminder that we need help pushing out our community survey for the All Hazards Mitigation Plan. This is a FEMA requirement.

There are sample materials attached so all I'm asking is that you plug them into your various platforms you use to share, newsletters (printed or electronic, Facebook, Instagram, X, courier pigeon, etc. We have shared on our socials so please feel free to go and share our pages if that is easier. Our pages can be found with the following links:

Important: Please **forward me copies of your outreach efforts** (email forwards or screenshots of social media posts) so we can document your contributions—this is a requirement for FEMA as part of the planning process. Thank you for helping us get this important phase of the project off the ground!

Thanks!!

Amanda Bowen
Emergency Manager
575.647.7900
575.520.4331
amandab@donaana.gov
Leading with Preparedness, Responding with Excellence

OFFICE OF EMERGENCY MANAGEMENT

Doña Ana Survey Findings

July 18th 2025

Be stronger than before

1404

tidalbasingroup.com

Contents

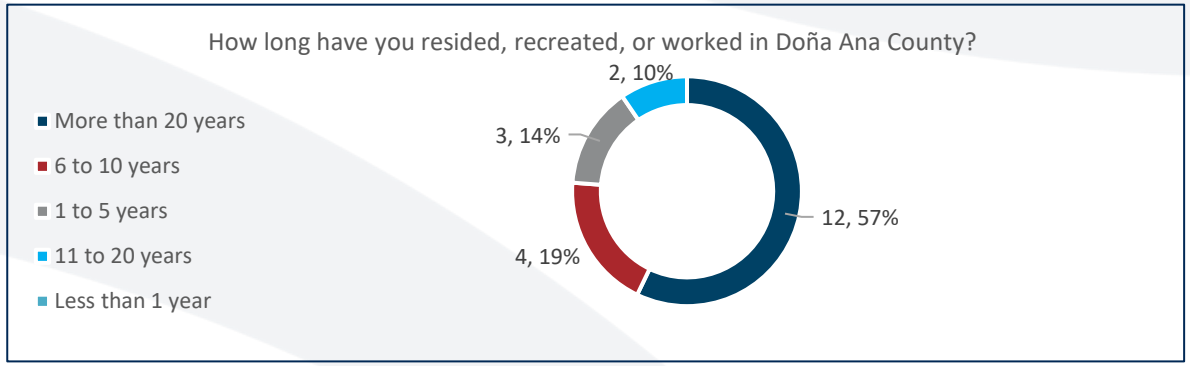
3. Data Clean-Up Summary
4. Residential Damage Type
5 . Residential/Workplace Resilience
6. Natural Hazard Concerns
7. Future Projects and Communications

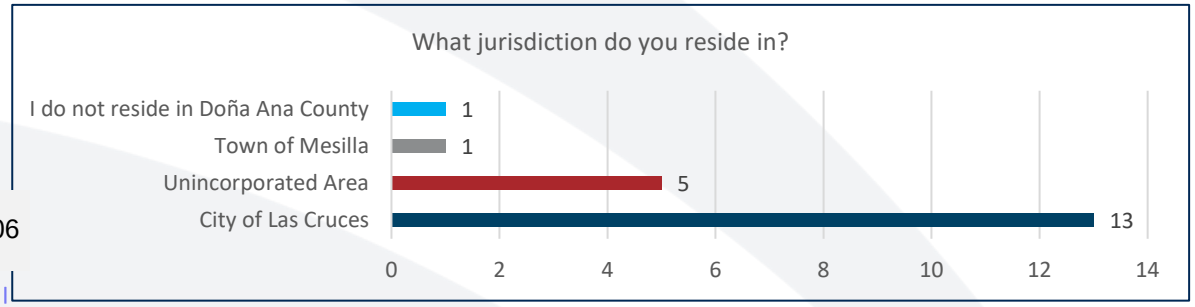
Be stronger than before

Data Summary and Clean-Up

Findings:

- 21 Total Responses
- One Respondent does not reside in Doña Ana***
- 62% of Respondents reside in the city of Las Cruces
- 71% of Respondents have experienced damage to their residences due to severe wind
- 0% of Respondents had major residential damage, though ~71% reported minor damage and affected homes
- ~10% of Respondents have had their place of work closed due to hazardous weather events (reported roof leaks and storefront collapse due to severe wind)
- Severe cracks reported in earthquake, wind knocking down satellites, shingles and objects ripped off roofs and damaged by hail, large tree branches
- 86% of Respondents are at least somewhat concerned about extreme temperatures and extreme wind (drought third most concerning at 86%)
- Concern regarding safety of people that are homeless in the face of drought and extreme temperatures
- 48% of respondents took action to make their residence/workplace more resilient to natural hazards – anchors for wind, cenotes/drains to capture water, removing bushes and tree limbs and roof replacements
- Doña Ana Survey Demographics:





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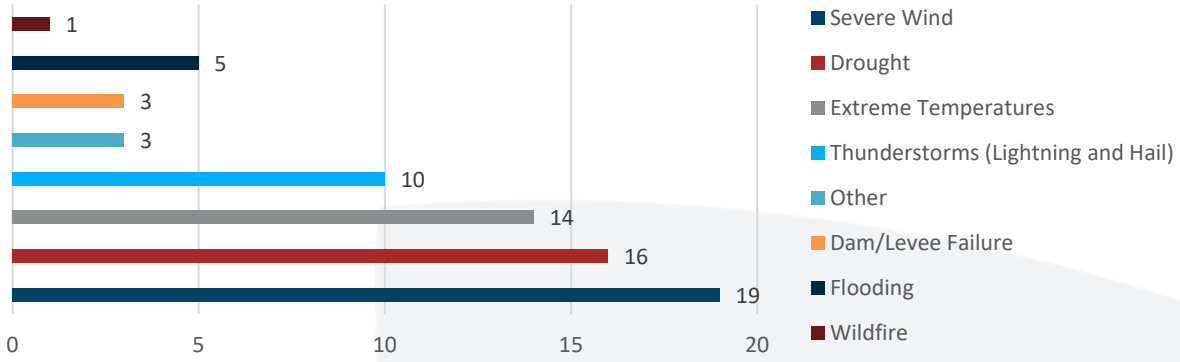
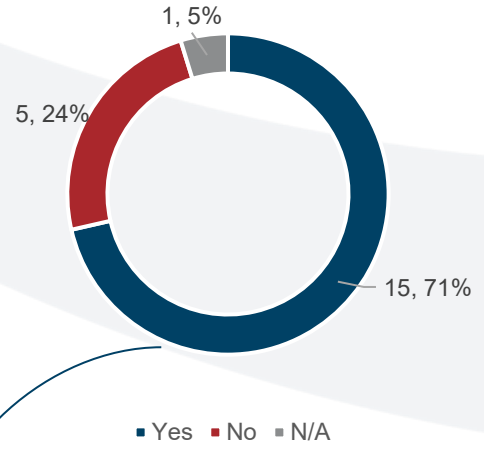
Residential Damage Type

In the past five years, which of the following natural hazard events have you experienced in Doña Ana County?

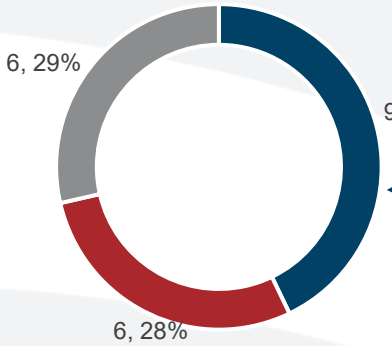


In the past five years, has your residence been damaged by any of the aforementioned natural hazards?



15 respondents who reported damage (9 residential properties with minor damage and 6 residential properties affected)

Residential Damage Categories



- Minor: a home with repairable non-struct mage.
- Affected: a home is considered affected amage to the home is mostly cosmetic.
- N/A

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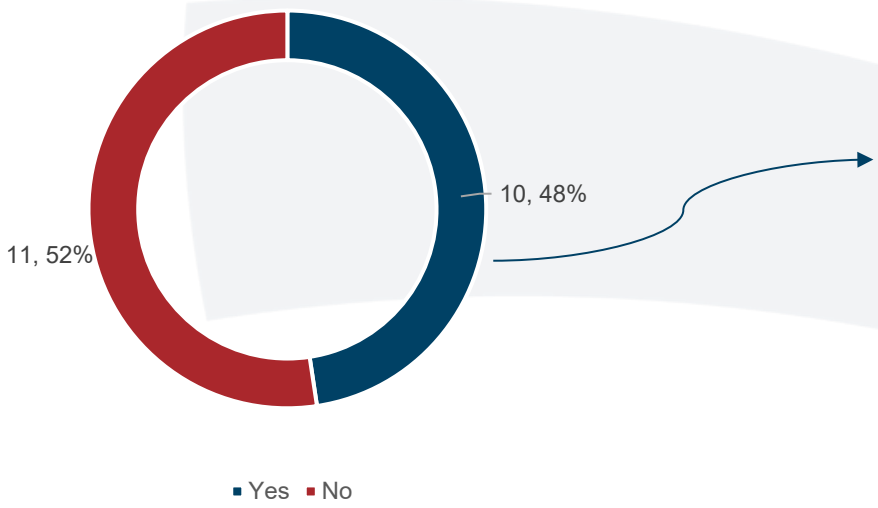
Residential/Workplace Resilience

Have you taken any actions to make your residence and/or workplace more resilient to natural hazards?



10 Respondents reported taking action to increase resiliency to natural hazards:

- French drain to prevent flooding (thunderstorm drainage) and cenotes to capture water
- Removing bushes and tree limbs
- Windbreaks and anchoring to prevent wind damage
- Replacing and repairing roofs to withstand severe winds

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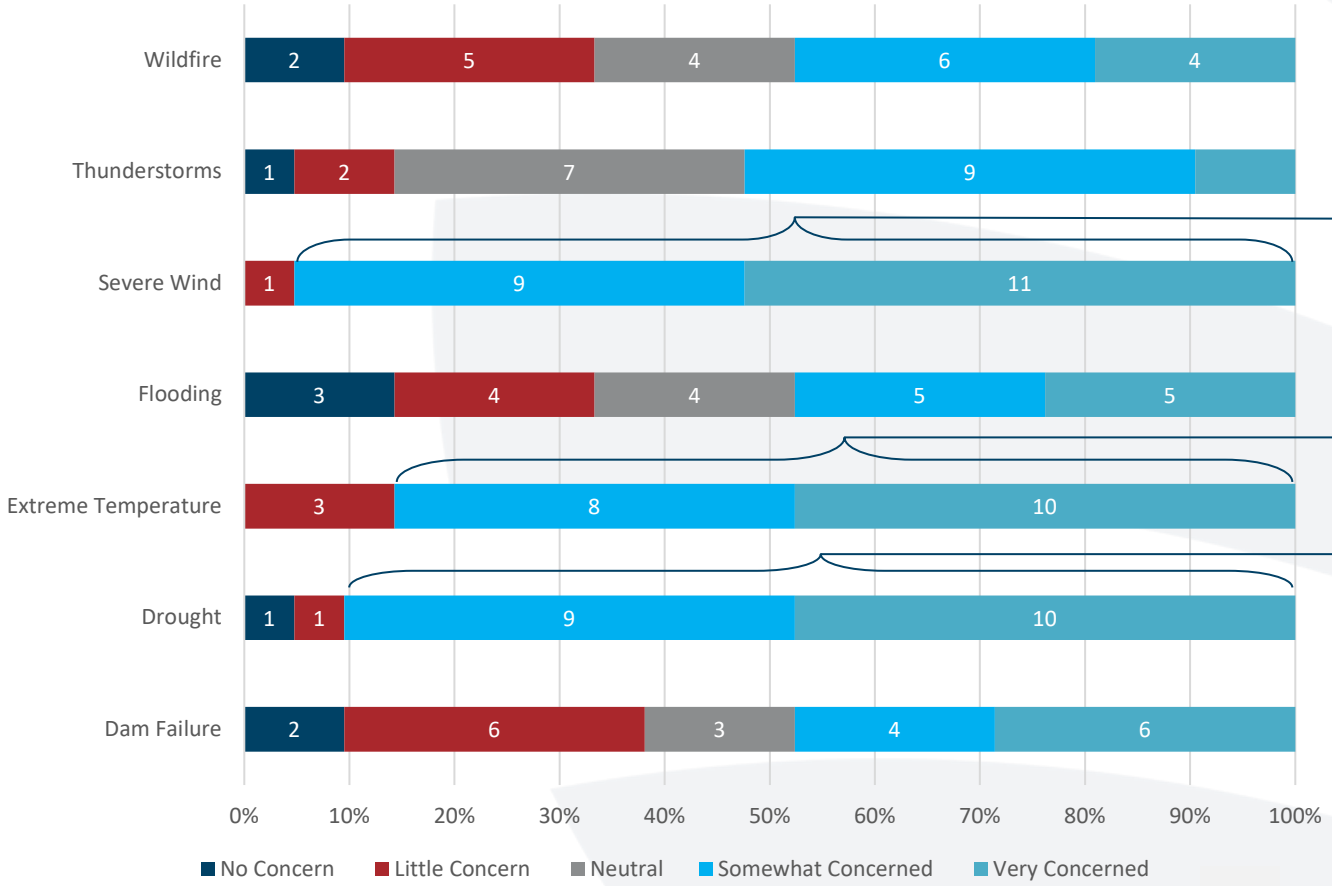
Natural Hazard Concerns

How concerned are you about the following natural hazards in Doña Ana County?



95% of respondents are at least somewhat concerned with Severe Wind, with 43% very concerned

86% of respondents are at least somewhat concerned with Extreme Temperatures, with 48% very concerned

90% of respondents are at least somewhat concerned with Drought, with 48% very concerned

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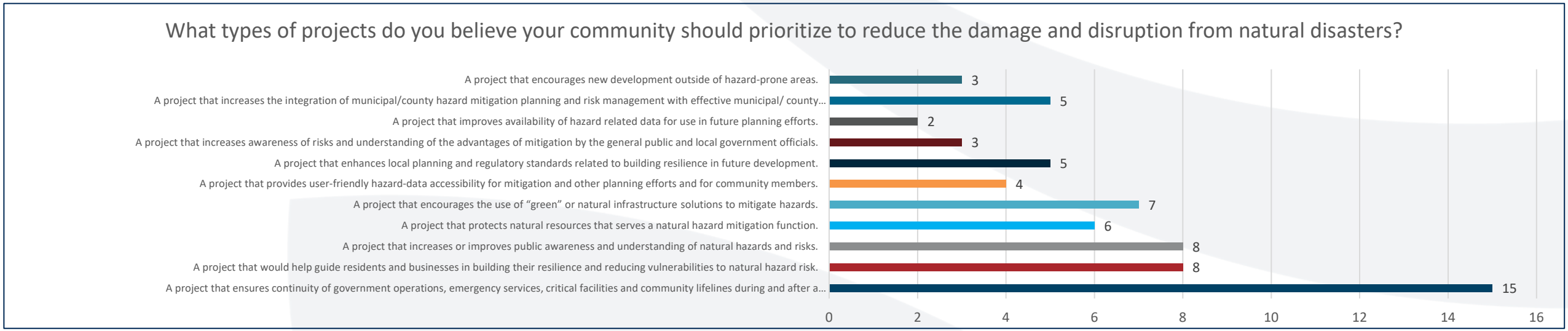
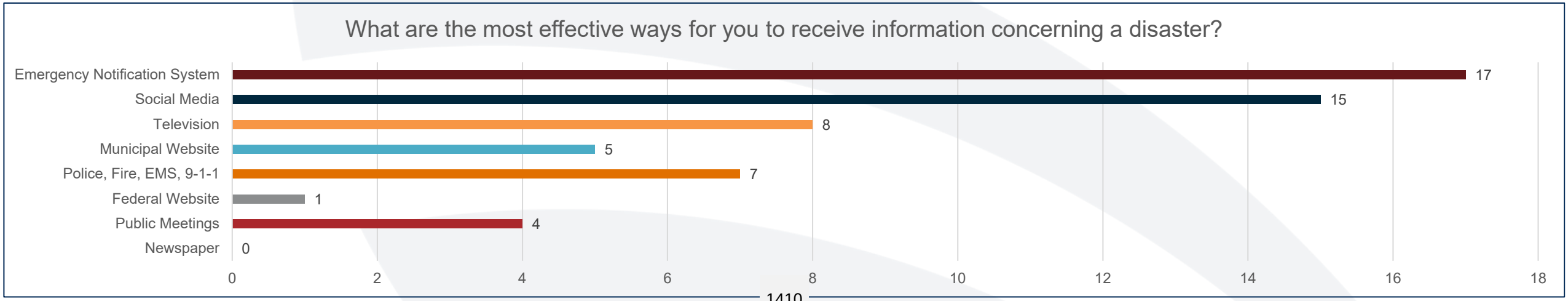
1409

Future Projects and Comms.





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04 SECTION HEADER (MEETING #2)

Local Planning Team Meeting #2 invitation

Local Planning Team Meeting #2 agenda

Local Planning Team Meeting #2 notes

Community Profile Worksheet

Hazard Profile Worksheet

Kymmie Scott

Subject:	Doña Ana AHMP: LPT Meeting #2
Location:	Microsoft Teams Meeting
Start:	Tue 6/3/2025 8:30 AM
End:	Tue 6/3/2025 10:00 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Kymmie Scott
Required Attendees:	Amanda Bowen; Andrew Bowen; Delyce Maciel; Joy V. Chavez; Lorenzo Astorga; Manny Shreves; Mario Juarez-Infante, PE; Mayor Diana Murillo; Michael Garza; Tim Pitts; Vanessa Ordoñez; Kyle Karsjen; Tory Littlefield; Bradley Nuding
Optional Attendees:	Jessica Henry

Microsoft Teams Need help?

Join the meeting now

Meeting ID: 271 445 277 098 3

Passcode: Vf3KV9iC

Dial in by phone

+1 914-294-5479,,151611084# United States, Westchester

Find a local number

Phone conference ID: 151 611 084#

For organizers: Meeting options | Reset dial-in PIN

Doña Ana County AHMP LPT Meeting #2 Agenda

Date: June 3, 2025, 8:30 a.m. MDT

Microsoft Teams w/PowerPoint

- Welcome & Project Review
- Plan Update Status & HIRA Review
- Next Steps & Action Items
- Questions
- Adjourn

DOÑA ANA HAZARD MITIGATION PLAN – LOCAL PLANNING TEAM MEETING #2

June 3, 2025 @ 8:30 AM MT

Meeting Attendance

#	Last Name	First Name	Organization	Contact
1.	Bowen	Amanda	Doña Ana OEM	amandab@donaanacounty.org
2.	Bowen	Andrew	New Mexico State University	abowen@nmsu.edu
3.	Maciel	Delyce	Elephant Butte Irrigation District	dmaciel@ebid-nm.org
4.	Chavez	Joy	Doña Ana OEM	Joyc@donaanacounty.org
5.	Ordoñez	Vanessa	City of Anthony	vordonez@cityofanthonynm.org
6.	Garza	Michael	Doña Ana County Flood Commission	michaelg@donaanacounty.org
7.	Littlefield	Tory	AC Disaster	tlittlefield@acdisaster.com
8.	Scott	Kymmie	Tidal Basin	kymmie.scott@tidalbasin.com
9.	Karsjen	Kyle	Tidal Basin	kyle.karsjen@tidalbasin.com
10.	Nuding	Bradley	Tidal Basin	Bradley.nuding@tidalbasin.com

Agenda / Discussion

- **Welcome**
  - Kymmie introduced the meeting agenda, which includes discussing the community profile and the HIRA, providing input, answering questions, and outlining next steps. She emphasized the importance of documenting attendance for FEMA mitigation plans.
- **Hazard Mitigation Overview**
  - Kymmie reviewed the concept of hazard mitigation, explaining its role in preventing future emergencies or minimizing their effects through infrastructure changes. She highlighted the importance of mitigation planning for federal funding eligibility and interagency collaboration.
- **Project Phase Update**
  - Kymmie provided an update on the project phase, indicating that they are transitioning from phase two to phase three, focusing on wrapping up the HIRA and developing a new mitigation strategy.
- **Responsibilities of Participating Jurisdictions**
  - Kymmie reminded participating jurisdictions of their responsibilities, including attending planning meetings, identifying community capabilities, documenting

previous hazard mitigation actions, and sharing public survey and review drafts.

- **Community Profile and HIRA Review**
  - Kymmie discussed the community profile and HIRA, requesting feedback on various aspects such as history, geography, population demographics, social vulnerability, economy, land use, development trends, and community lifelines.
- **Plan Goals Confirmation**
  - Kymmie reviewed the plan goals, seeking confirmation or suggestions for changes. The goals include improving hazard mitigation collaboration, promoting disaster-resistant development, educating stakeholders, reducing risk to people and property, and exploring funding avenues.
- **Community Survey Results**
  - Kymmie shared the results of the community survey, noting that only 14 people responded. She recommended reopening the survey through the end of June and pushing for more participation through social media, lobby displays, and collaboration with NGOs. TB will revise the community outreach flyers and reopen the survey by the end of the today.
- **Community Engagement Efforts**
  - Amanda and Vanessa Ordoñez discussed strategies for increasing community engagement, including leveraging elected leaders, social media platforms, and public meetings to promote the survey and gather input.
- **Community Profile and Hazard Sections Feedback**
  - Kymmie invited participants to provide feedback on the community profile and hazard sections, emphasizing the importance of accurate historical context, geographic features, population shifts, social vulnerability, economy, land use, development trends, and community lifelines. The group did not have immediate feedback on the content. Doña Ana OEM asked EBID if they'd be able to provide dam historical information and profiling – EBID will get back to Doña Ana OEM with an answer.
- **Dust Storms and Severe Wind**
  - Kymmie suggested combining dust storms with the severe wind section in the HIRA, streamlining the information and avoiding duplication. Participants agreed with the suggestion.
- **HMP Tool Updates**
  - Kymmie asked participants to focus on completing the next two tabs of the mitigation tool—NFIP (National Flood Insurance Program) reporting and hazard ranking—with particular attention to capturing geographic nuances in hazard impacts, and were informed that they may override the tool-generated rankings if they provide a justification.
- **Mitigation Action Meetings**
  - Kymmie announced upcoming mitigation action meetings in July (2-3 days), encouraging participants to bring relevant stakeholders such as public works directors, community development staff, and first responder chiefs. The meetings aim to develop impactful mitigation actions for the jurisdictions.
- **Next Steps and Deadlines**
  - Kymmie outlined the next steps and deadlines, including submitting feedback on

the community profile and hazard chapters by the 13th, completing the mitigation tool tabs by the end of the month, and preparing for on-site meetings in July.

- **Meeting Conclusion**
  - Kymmie concluded the meeting, encouraging participants to leverage the planning team for assistance and support. Amanda expressed appreciation for the team's work and looked forward to improving the plan further.

Other Discussion Topics

- No additional questions, comments, or concerns were raised by the group.

Action Items Summary

Outstanding or In-Progress Items

Activity	Assigned To	Date Due / Date Completed
Community Profile Feedback: Send out materials and forms to capture feedback on the community profile and hazard sections	Kymmie	06/04/2025
Community Profile Feedback: Provide comments on the community profile and hazard chapters by the 13th of the month	All Participants	06/13/2025

New Items

This section summarizes new action items identified during the meeting.

Activity	Assigned To	Date Due / Date Completed
Meeting Notes	Tidal Basin	06/04/2025
Community Survey: Reopen the community survey and update the community engagement flyers to reflect the new deadline date.	Tidal Basin	06/04/2025
Community Survey: Push it out through social media, lobbies, and points of contact to increase participation.	All participants	06/04/2025
Community Survey: Share the meeting details with Amanda for the upcoming City of Anthony board meeting to discuss the community survey and push it out to the public.	Chief Ordoñez	06/04/2025
Community Survey: Mention the community survey during the board meeting to drive public participation in the City of Anthony.	Amanda Bowen	TBD
Community Partner Engagement: Identify and compile a list of community	All participants	06/06/2025

partners to review the revised document and provide input		
Mitigation Action Meetings: Coordinate with Amanda and Joy to finalize dates for on-site mitigation action meetings in July	Kymmie	06/06/2025

Company Confidential – External Shareable

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Worksheet

Community Profile Review

History

Confirmed as written Needs revision

Comments:

Geography and Topography

Confirmed as written Needs revision

Comments:

Population and Demographics

Confirmed as written Needs revision

Comments:

Social Vulnerability (including health disparity)

Confirmed as written Needs revision

Comments:

Economy

☐ Confirmed as written ☐ Needs revision

Comments:

Land Use and Development Trends

☐ Confirmed as written ☐ Needs revision

Comments:

Community Lifelines

☐ Confirmed as written ☒ Needs revision

Comments:

Community Capabilities

☐ Confirmed as written ☐ Needs revision

Comments:

Worksheet

Hazard Profile Review

Hazard _____ **Date** _____

(Use a separate worksheet for each hazard under review.)

Local Relevance of Hazard Profile

Confirmed as written Needs revision

Comments:

Location and Extent

Confirmed as written Needs revision

Comments:

Known Historical Impacts or Events

Confirmed as written Needs revision

Comments:

Local Sense of Likelihood/Probability

Confirmed as written Needs revision

Comments:

Climate Change Impacts (if any)

Confirmed as written Needs revision

Comments:

Vulnerability and Consequence Assessment

Confirmed as written Needs revision

Comments:

05 SECTION HEADER (LPT HIRA REVIEW)

Local Planning Team HIRA Review Request Email

Kymmie Scott

From: Kymmie Scott
Sent: Wednesday, June 4, 2025 2:24 PM
To: Amanda Bowen; Andrew Bowen; Delyce Maciel; Joy V. Chavez; Lorenzo Astorga; Manny Shreves; Mario Juarez-Infante, PE; Mayor Diana Murillo; Michael Garza; Tim Pitts; Vanessa Ordoñez
Cc: Kyle Karsjen; Bradley Nuding; Tory Littlefield; Jessica Henry
Subject: Doña Ana AHMP: Follow-Up from Planning Meeting #2 – Next Steps & Materials
Attachments: DoñaAna_AHMP_Planning Meeting #2 Notes_03JUN25.pdf; DoñaAna_AHMP_Planning Meeting #2_03JUN25.pdf; Worksheet_Community Profile Review.pdf; Worksheet_Hazard Profile Review.pdf; 01_DRAFT_DoñaAna_AHMP_v1.docx; A1 _DRAFT_DoñaAna_AHMP_ACRONYMS_v1.docx; A2 _DRAFT_DoñaAna_AHMP_GLOSSARY_v1.docx; A3 _DRAFT_DoñaAna_AHMP_REFERENCES_v1.docx

Dear Local Planning Team,

Thank you to everyone who joined us for Planning Meeting #2 yesterday. We appreciate your time, input, and continued collaboration. For those who weren't able to attend, you can view the recording of the meeting here: Doña Ana AHMP LPT Meeting _2 - Meeting Recording.mp4 (this is too large to attach). Meeting slides and notes have also been attached.

To support your continued engagement, the following materials are attached to this email:

- Draft Community Profile and Hazard Identification and Risk Assessment (HIRA) plan elements
- Feedback forms for each section

These documents are in need of your review and comment. Feedback can be submitted in the form of written notes, redlines, completed forms, or verbal input - whatever is easiest for you.

Your assigned Tidal Basin planner will be reaching out by the end of this week to:

- Check in on the Community Capabilities Assessment and Prior Mitigation Strategies tabs (if not yet completed – *now overdue*)
- Collect any feedback you'd like to share on the draft materials (due next Friday, 6/13)
- Begin work on the next two sections: NFIP Reporting and Hazard Ranking (due end of month)
- Gather contact information for any community partners you recommend for reviewing plan elements after the LPT review (due end of month)

As a reminder, the Community Survey has also been reopened through the end of the month to allow for additional input. The link to the survey is HERE and the outreach materials have been uploaded HERE (also too big to attach) for easy reference and distribution. Please continue sharing the survey with your networks, especially those serving underserved communities. (Note: you can also just share County socials or direct folks to the OEM page).

Finally, we've confirmed the dates for our onsite mitigation action development meetings: July 7–9. We'll follow up next week with details on specific times and locations for each meeting.

As always, thank you for everything you're doing. As a fellow New Mexican, I deeply appreciate your work to build your community's resilience. I'm always here if you have questions, concerns, or ideas you'd like to share.

Kindly,

Kymmie

Kymmie Scott, CEM
Project Manager and Tribal Relations Specialist
State, Local, and Commercial Division

Be stronger than before

M: 970.531.1577 kymmie.scott@tidalbasingroup.com
tidalbasingroup.com

TIDAL BASIN

My working hours may not be your working hours. Please do not feel obligated to reply outside of your normal work schedule.

06 SECTION HEADER (MEETING #3)

Local Planning Team Meeting #3 invitations (x3)

Local Planning Team Meeting #3 agenda

Local Planning Team Meeting #3 notes

Local Planning Team Meeting #3a sign-in sheet

Local Planning Team Meeting #3b sign-in sheet

Local Planning Team Meeting #3c sign-in sheet

Mitigation Action Worksheet

Mitigation Action Examples

Kymmie Scott

Subject:	Doña Ana AHMP Mitigation Action Workshop #1 (Hatch)
Location:	Placitas Community Center, 241 Trujillo St., Hatch, NM 87937
Start:	Tue 7/8/2025 9:00 AM
End:	Tue 7/8/2025 12:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Kymmie Scott
Required Attendees:	Amanda Bowen; Andrew Bowen; Delyce Maciel; Joy V. Chavez; Lorenzo Astorga; Manny Shreves; Mario Juarez-Infante, PE; Mayor Diana Murillo; Michael Garza; Tim Pitts; Vanessa Ordoñez
Optional Attendees:	Kyle Karsjen; Bradley Nuding; Tory Littlefield

You are invited to attend one of the upcoming **Mitigation Action Development Workshops** for the Doña Ana County All Hazards Mitigation Plan (AHMP) update.

During this workshop, we will:

- Collaboratively identify and refine **hazard mitigation actions** (projects and strategies) specific to your jurisdiction
- Discuss local risks and vulnerabilities
- Explore funding eligibility and best practices for action development

Each jurisdiction only needs to attend one workshop, and you are welcome to choose the time and location most convenient for you.

You're encouraged to **share this invitation with any community partners** who may be helpful in developing mitigation actions. If you're unsure whether someone would be a good fit to include, feel free to reach out - I'm happy to provide guidance.

We look forward to working with you to shape the strategies that will strengthen your community's resilience and support future funding opportunities.

Kymmie Scott

Subject:	Doña Ana AHMP Mitigation Action Workshop #2 (Las Cruces)
Location:	Doña Ana County Government Center- BOCC Chambers (Back up rooms, if BOCC runs longer than expected, 111-113), 845 N. Motel Blvd., Las Cruces, NM 88007
Start:	Tue 7/8/2025 2:00 PM
End:	Tue 7/8/2025 5:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Kymmie Scott
Required Attendees:	Amanda Bowen; Andrew Bowen; Delyce Maciel; Joy V. Chavez; Lorenzo Astorga; Manny Shreves; Mario Juarez-Infante, PE; Mayor Diana Murillo; Michael Garza; Tim Pitts; Vanessa Ordoñez
Optional Attendees:	Kyle Karsjen; Tory Littlefield; Bradley Nuding

You are invited to attend one of the upcoming **Mitigation Action Development Workshops** for the Doña Ana County All Hazards Mitigation Plan (AHMP) update.

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- Explore funding eligibility and best practices for action development

Each jurisdiction only needs to attend one workshop, and you are welcome to choose the time and location most convenient for you.

You're encouraged to **share this invitation with any community partners** who may be helpful in developing mitigation actions. If you're unsure whether someone would be a good fit to include, feel free to reach out - I'm happy to provide guidance.

We look forward to working with you to shape the strategies that will strengthen your community's resilience and support future funding opportunities.

Kymmie Scott

Subject:	Doña Ana AHMP Mitigation Action Workshop #3 (Chaparral)
Location:	Delores Wright Community Center, 400 E. Lisa Dr., Chaparral, NM 88081
Start:	Wed 7/9/2025 9:00 AM
End:	Wed 7/9/2025 9:30 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Kymmie Scott
Required Attendees:	Amanda Bowen; Andrew Bowen; Delyce Maciel; Joy V. Chavez; Lorenzo Astorga; Manny Shreves; Mario Juarez-Infante, PE; Mayor Diana Murillo; Michael Garza; Tim Pitts; Vanessa Ordoñez
Optional Attendees:	Kyle Karsjen; Bradley Nuding; Tory Littlefield

You are invited to attend one of the upcoming **Mitigation Action Development Workshops** for the Doña Ana County All Hazards Mitigation Plan (AHMP) update.

During this workshop, we will:

- Collaboratively identify and refine **hazard mitigation actions** (projects and strategies) specific to your jurisdiction
- Discuss local risks and vulnerabilities
- Explore funding eligibility and best practices for action development

Each jurisdiction only needs to attend one workshop, and you are welcome to choose the time and location most convenient for you.

You're encouraged to **share this invitation with any community partners** who may be helpful in developing mitigation actions. If you're unsure whether someone would be a good fit to include, feel free to reach out - I'm happy to provide guidance.

We look forward to working with you to shape the strategies that will strengthen your community's resilience and support future funding opportunities.

Doña Ana County AHMP LPT Meeting #3 Agenda

Date: July 7,8, and 9, 2025, time varies

Onsite

- Welcome & Project Review
- How to Develop a Mitigation Strategy
- Mitigation Action Workshop
- Next Steps and Action Items
- Adjourn

DOÑA ANA HAZARD MITIGATION PLAN 2025 UPDATE

Planning Meeting #3 (July 7, 8, and 9, 2025)

Onsite (time and locations varied each day)

Meeting Attendance				
#	Last Name	First Name	Title	Organization
--	--	--	--	*See associated sign-in sheets.*

Discussion

- **Meeting Introduction**
  - Kymmie Scott, Project Manager with Tidal Basin, opened each session by welcoming attendees and thanking them for their continued engagement in the planning process. The purpose of this third planning meeting was to support the development of locally tailored mitigation actions and help jurisdictions complete the final sections of the Mitigation Planning Tool.
  - Amanda Bowen from Doña Ana County Office of Emergency Management also welcomed participants and emphasized the value of this collaborative effort in strengthening community resilience and positioning jurisdictions for future funding opportunities.
- **Project Overview and Plan Context**
  - Kymmie provided a brief project recap, reviewing key milestones in the planning process to date, including:
    - Completion of the Hazard Identification and Risk Assessment (HIRA)
    - Community capabilities assessment
    - Confirmation of shared plan goals
    - Input received through community survey and stakeholder outreach
  - She noted that the updated hazard mitigation strategy would build directly on this foundation, aligning identified actions with risks, capabilities, and community goals.
- **What is a Mitigation Strategy?**
  - Kymmie facilitated a brief refresher on the purpose and structure of a mitigation strategy, describing it as the community's long-term blueprint for reducing risk. The strategy outlines the goals, objectives, and actions that jurisdictions will take to reduce vulnerability to hazards.
  - She reminded participants that a strong strategy is:
    - Informed by the risk and capability assessments
    - Actionable and measurable
    - Aligned with available funding opportunities

        - Developed with stakeholder and community input
- **Identifying Mitigation Actions**
    - Through a presentation and facilitated discussion, the planning team reviewed FEMA's definition of mitigation actions and highlighted common types of projects, including:
        - Infrastructure improvements (e.g., flood control, generators)
        - Policy updates (e.g., land use, building codes)
        - Public education and outreach
        - Nature-based or green infrastructure solutions
    - Examples of strong mitigation actions were contrasted with examples of non-mitigation activities to help participants distinguish between long-term risk reduction efforts and short-term response or recovery tasks.
    - Jurisdictions were reminded that:
        - Every action must tie back to an identified hazard
        - Quality is more important than quantity
        - Past actions can be refined or carried forward if still relevant
    - Participants were encouraged to "think big, think local, and think ahead" in identifying projects, and to engage department staff or partners as needed to fully develop ideas.
- **Action Development Support**
    - Each jurisdiction received:
        - Several action development worksheets
        - Example mitigation actions tailored to regional hazards and priorities
    - Kymmie and the planning team were available during the session to walk participants through the worksheets, clarify requirements, and offer ideas for structuring or refining actions.
    - Jurisdictions were encouraged to:
        - Draft initial actions using what they know now—exact figures or details are not required
        - Use the worksheet as a flexible tool that can evolve
        - Reach out for 1:1 support if needed
- **Next Steps and Action Items**
    - Kymmie concluded the session by outlining the next steps:
        - Tidal Basin planners will reach out within two weeks to schedule jurisdiction-specific meetings
        - During those meetings, planners will review the final Mitigation Planning Tool tabs and walk through the prioritization process
        - Jurisdictions should aim to submit completed action worksheets to their assigned point of contact for input into the planning tool
    - She emphasized that this is a collaborative process, and all jurisdictions will have a final opportunity to review and approve their information before the plan is finalized.
- **Meeting Conclusion**

- **Conclusion**: Amanda and Kymmie expressed their excitement for the project and gratitude for the participants' involvement. Kymmie provided an overview of the next steps and encouraged participants to reach out with any questions or concerns.

Follow-up Tasks

- **Follow-up Tasks**
  - **Planner Outreach**: Connect with jurisdictions to support further mitigation action development and refinement, as well as hazard prioritization (TB planners)
  - **Mitigation Actions and Prioritization**: Work with planners to develop final mitigation actions for updated mitigation strategies (Participating jurisdictions)
  - **Further Draft Development**: Continue draft development. (TB planners)
  - **Draft Review**: Once all information is received from jurisdictions, finalize draft and submit to LPT for review. (TB planners)

- Meetings adjourned approximately 3-4 hours after start.

Upcoming Meetings

TBD

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Doña Ana AHMP Workshop #1 July 7, 2025

(Name + Organization, please)

KYLE KARSJEN	TIDAL BASIN
Kymmie Scott	Tidal Basin
Joy V. CHAVEZ	DAC OEM
Amanda Bowen	DAC OEM

AHMP Mitigation Action Workshop

July 8, 2025

last updated 7/8/2025

Agency	Name	Signature	Phone #	Email
NMDA	Marshal Wilson	Marshal W	575 339 5035	Marshal.Jon@nmda.nmsu.edu
City of Las Cruces Flood	Angela Armijo		575 621 9595	aarmijo@lascruces.gov
City of Las Cruces	Jorge Avitia			javitia@lascruces.gov
NMSU	Andy Bauer		575-644-7545	abauer@nmsu.edu
DAC	Daniel Sambrano		575-312-1412	dans@donaana.gov
NMSU	Justin Dumin		575 635 1905	jdumin@nmsu.edu
NMSU	Johnny Carrillo		(575) 646-2519	jcarr622@nmsu.edu
NMSU	Jim STANFILL		575-463-8081	STANFILL@NMSU.EDU
NMSU	Scott Field		575-646-2400	psfield@NMSU.edu
DAC Flood	Mike Garza		575-525-5553	Michaelg@donaana.gov
NMSU	CLAYTON ABBEY		505-225-6824	cabbey@nmsu.edu
NMSU	Polly Saenz		575-649-8233	pwagner@nmsu.edu
CMA LC	STEVE PACHECO		575-528-3479	STPACHECO@LASCRUCES.GOV
DAC Flood	Tamara Hunteman		575-525-5502	tamhunte@donaana.gov
EBID	Denyce Maciel		575 993-2490	dmaciel@ebid-nm.org

AHMP Mitigation Action Workshop

July 9, 2025

last updated 7/8/2025

Agency	Name	Signature	Phone #	Email
Tidal Basin	Kymmie Scott		970.531.1577	kymmie.scott@tidalbasingroup.com
Tidal Basin	Ashlee Delventhal		504-638-2857	ashlee.delventhal@tidalbasingroup.com
TIDAL BASIN	KYLE KARSJEN		515 460 4711	Kyle.Karsjen@tidalbasingroup.com
DAC OEM	Joy V. CHAVEZ		575) 728-4360	joyc@DONAANA.GOV

Worksheet

Mitigation Action Development

Problem Statement/Background

Describe the issue or risk this action will address.

Hazard(s) to be Mitigated

List the plan-identified hazard(s) this action targets.

Method of Implementation

Explain how the action will be carried out (e.g., project, policy, outreach). Provide as many details as possible.

Estimated Benefit

Summarize the intended outcome or impact.

Responsible Party

Indicate the lead agency/department responsible for implementation.

Estimated Cost

Select one:

- [ ] Less than $50,000
- [ ] $50,000–$100,000
- [ ] $100,000–$1M
- [ ] $1M–$5M
- [ ] More than $5M

Potential Funding Sources

List likely sources (e.g., FEMA HMGP, local funds, state programs).

Estimated Timeline

Select one:

- [ ] 0–1 year
- [ ] 1–3 years
- [ ] 3–5 years
- [ ] More than 5 years

MITIGATION ACTION EXAMPLES

This flyer includes example actions that other communities, both in New Mexico and across the U.S., have implemented to reduce risk from natural hazards. The examples are tailored to reflect Doña Ana County's unique hazards, geography, climate, infrastructure, and culture.

While these are not one-size-fits-all solutions, they're intended to spark ideas and support the development of mitigation actions that are realistic, relevant, and achievable within your community.

DAM FAILURE

1. Further the development of a county-wide dam safety program with inspection schedules, risk prioritization, and emergency action plans.
2. Install telemetry-enabled rain and stream gages at low water crossings to support real-time flood and dam failure monitoring.
3. Partner with EBID to enhance maintenance and risk communication for dams serving agricultural irrigation.
4. Incorporate dam failure risk education into public outreach campaigns for schools and rural communities.
5. Includes dam inundation mapping in local development review processes and restricts new construction in identified inundation zones.

EXTREME TEMPERATURES

1. Coordinate with public health agencies to create a countywide "cooling and warming center" network, including in libraries, schools, and community centers.
2. Launch a campaign targeting landlords to educate and enforce minimum heating and cooling standards and proper insulation.
3. Provide grants or rebates for residents to install energy-efficient HVAC systems or backup heating and cooling options.
4. Retrofit older public housing with better insulation and reflective roofing materials to reduce heat gain.
5. Create a registry of vulnerable individuals (elderly, homebound) for targeted outreach during heat or cold events.

DROUGHT

1. Expand xeriscape incentives and enforce drought-resistant landscape ordinances, particularly in rural developments.
2. Develop a regional drought contingency and water reuse strategy in collaboration with domestic water suppliers and agricultural stakeholders.
3. Install rainwater harvesting systems at county-owned buildings and encourage public adoption via subsidy programs.
4. Educate farmers on drought-tolerant crop rotation, cover crops, and conservation tillage practices.
5. Promote graywater reuse systems for non-potable residential irrigation with guidance materials.

FLOODING

1. Expand the county's Flood Warning and Response System to include community-specific outreach and gage placements.
2. Adopt low-impact development practices countywide to manage stormwater, especially in new subdivisions.
3. Incentivize elevation retrofits or voluntary relocation for frequently flooded structures.
4. Partner with NM State and federal agencies to complete the Rio Grande Canalization Project upgrades.
5. Host biannual NFIP workshops to improve local understanding and participation rates.

MITIGATION ACTION EXAMPLES

SEVERE WIND

1. Implement a residential wind retrofitting rebate program for anchoring roofs, doors, and windows.
2. Conduct a tree-trimming campaign focused on power line corridors and critical infrastructure to reduce wind-related outages and damage.
3. Host an annual "wind readiness" outreach campaign targeting schools, mobile home parks, and agricultural producers.
4. Establish vegetation buffers and windbreaks along vulnerable road corridors, particularly near colonias and major agricultural routes.
5. Implement conservation tillage and soil crusting prevention practices in coordination with NRCS and local cooperatives.

WILDFIRE

1. Expand defensible space programs through partnerships with fire departments and soil conservation districts, targeting high-risk wildland-urban interface (WUI) areas.
2. Design and distribute culturally resonant wildfire preparedness materials covering evacuation, defensible space, and safe use of outdoor equipment during fire season.
3. Incentivize the use of fire-resistant building materials in new construction and major renovations.
4. Conduct prescribed burns or mechanical thinning projects in fire-prone open spaces and buffer zones near critical infrastructure.
5. Provide emergency water tanks or dry hydrants in remote communities lacking adequate fire suppression access.

THUNDERSTORMS (LIGHTNING AND HAIL)

1. Install lightning rods and surge protectors on critical public facilities such as schools, EOCs, and water systems.
2. Educate rural and agricultural communities on safe shelter practices and livestock protection during storms.
3. Create a voluntary residential audit program to assess storm vulnerability (roof condition, tree hazards, surge protection, etc.), with guidance for low-cost retrofits and possible discounts or rebates through local utilities.
4. Promote use of hail-resistant roofing materials through incentive programs and public education.
5. Develop a lightning strike tracking system to identify repeat-prone areas for infrastructure hardening and emergency planning.

07 SECTION HEADER (STAKEHOLDER REVIEW HIRA)

Stakeholder HIRA Review Request – Colquitt

Stakeholder HIRA Review Request – Burciaga

Stakeholder HIRA Review Request – Wagley

Stakeholder HIRA Review Request – Galindo

Stakeholder HIRA Review Request – Garcia

Stakeholder HIRA Review Request – Franklin

Stakeholder HIRA Review Request - Jasso

Kymmie Scott

From: Kymmie Scott
Sent: Monday, July 21, 2025 10:01 AM
To: john@huecobolson.com
Cc: Amanda Bowen; Joy V. Chavez; Kyle Karsjen
Subject: Request for Input: Doña Ana County Hazard Mitigation Plan Draft Review (Chapparel)
Attachments: 01_DRAFT_DoñaAna_AHMP_v2.2.docx; A1 _DRAFT_DoñaAna_AHMP_ACRONYMS_v2.2.docx; A2 _DRAFT_DoñaAna_AHMP_GLOSSARY_v2.2.docx; A3 _DRAFT_DoñaAna_AHMP_REFERENCES_v2.2.docx

Good morning John,

My name is Kymmie Scott, and I'm a project manager with a company contracted by Doña Ana Office of Emergency Management called Tidal Basin Government Consulting. I'm reaching out to request your review and feedback on the working draft of the Doña Ana County All-Hazard Mitigation Plan (AHMP) Update. *(The draft AHMP and support documents are attached.)*

What is this plan and why does it matter?
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Kindly,

Kymmie

Kymmie Scott, CEM
Project Manager and Tribal Relations Specialist
State, Local, and Commercial Division

Be stronger than before

M: 970.531.1577 kymmie.scott@tidalbasingroup.com
tidalbasingroup.com

TIDAL BASIN

My working hours may not be your working hours. Please do not feel obligated to reply outside of your normal work schedule.

Kymmie Scott

From: Kymmie Scott
Sent: Monday, July 21, 2025 10:03 AM
To: Burciagam79@yahoo.com
Cc: Amanda Bowen; Joy V. Chavez; Kyle Karsjen
Subject: Request for Input: Doña Ana County Hazard Mitigation Plan Draft Review (Sunland Park)
Attachments: 01_DRAFT_DoñaAna_AHMP_v2.2.docx; A1 _DRAFT_DoñaAna_AHMP_ACRONYMS_v2.2.docx; A2 _DRAFT_DoñaAna_AHMP_GLOSSARY_v2.2.docx; A3 _DRAFT_DoñaAna_AHMP_REFERENCES_v2.2.docx

Good morning Councilwoman Burciaga,

My name is Kymmie Scott, and I'm a project manager with a company contracted by Doña Ana Office of Emergency Management called Tidal Basin Government Consulting. I'm reaching out to request your review and feedback on the working draft of the Doña Ana County All-Hazard Mitigation Plan (AHMP) Update. *(The draft AHMP and support documents are attached.)*

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Kymmie Scott

From: Kymmie Scott
Sent: Monday, July 21, 2025 10:04 AM
To: lyla.wagley@yahoo.com
Cc: Amanda Bowen; Joy V. Chavez; Kyle Karsjen
Subject: Request for Input: Doña Ana County Hazard Mitigation Plan Draft Review (La Mesa)
Attachments: 01_DRAFT_DoñaAna_AHMP_v2.2.docx; A1 _DRAFT_DoñaAna_AHMP_ACRONYMS_v2.2.docx; A2 _DRAFT_DoñaAna_AHMP_GLOSSARY_v2.2.docx; A3 _DRAFT_DoñaAna_AHMP_REFERENCES_v2.2.docx

Good morning Lyla,

My name is Kymmie Scott, and I'm a project manager with a company contracted by Doña Ana Office of Emergency Management called Tidal Basin Government Consulting. I'm reaching out to request your review and feedback on the working draft of the Doña Ana County All-Hazard Mitigation Plan (AHMP) Update. *(The draft AHMP and support documents are attached.)*

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TIDAL BASIN

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Kymmie Scott

From: Kymmie Scott
Sent: Monday, July 21, 2025 10:05 AM
To: mgalindo@launionwatersheddistrict.org
Cc: Amanda Bowen; Joy V. Chavez; Kyle Karsjen
Subject: Request for Input: Doña Ana County Hazard Mitigation Plan Draft Review (La Union)
Attachments: 01_DRAFT_DoñaAna_AHMP_v2.2.docx; A1 _DRAFT_DoñaAna_AHMP_ACRONYMS_v2.2.docx; A2 _DRAFT_DoñaAna_AHMP_GLOSSARY_v2.2.docx; A3 _DRAFT_DoñaAna_AHMP_REFERENCES_v2.2.docx

Good morning MaryAnn,

My name is Kymmie Scott, and I'm a project manager with a company contracted by Doña Ana Office of Emergency Management called Tidal Basin Government Consulting. I'm reaching out to request your review and feedback on the working draft of the Doña Ana County All-Hazard Mitigation Plan (AHMP) Update. *(The draft AHMP and support documents are attached.)*

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My working hours may not be your working hours. Please do not feel obligated to reply outside of your normal work schedule.

Kymmie Scott

From: Kymmie Scott
Sent: Monday, July 21, 2025 10:06 AM
To: admin@townsiteoflaunion.org
Cc: Amanda Bowen; Joy V. Chavez; Kyle Karsjen
Subject: Request for Input: Doña Ana County Hazard Mitigation Plan Draft Review (La Union)
Attachments: 01_DRAFT_DoñaAna_AHMP_v2.2.docx; A1 _DRAFT_DoñaAna_AHMP_ACRONYMS_v2.2.docx; A2 _DRAFT_DoñaAna_AHMP_GLOSSARY_v2.2.docx; A3 _DRAFT_DoñaAna_AHMP_REFERENCES_v2.2.docx

Good morning Jorge,

My name is Kymmie Scott, and I'm a project manager with a company contracted by Doña Ana Office of Emergency Management called Tidal Basin Government Consulting. I'm reaching out to request your review and feedback on the working draft of the Doña Ana County All-Hazard Mitigation Plan (AHMP) Update. *(The draft AHMP and support documents are attached.)*

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Kymmie Scott

From: Kymmie Scott
Sent: Monday, July 21, 2025 10:07 AM
To: bfrank586@live.com
Cc: Amanda Bowen; Joy V. Chavez; Kyle Karsjen; gussica98@yahoo.com
Subject: Request for Input: Doña Ana County Hazard Mitigation Plan Draft Review
Attachments: 01_DRAFT_DoñaAna_AHMP_v2.2.docx; A1 _DRAFT_DoñaAna_AHMP_ACRONYMS_v2.2.docx; A2 _DRAFT_DoñaAna_AHMP_GLOSSARY_v2.2.docx; A3 _DRAFT_DoñaAna_AHMP_REFERENCES_v2.2.docx

Good morning Beverly,

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From: Kymmie Scott
Sent: Monday, July 21, 2025 10:08 AM
To: jassohenry@gmail.com
Cc: Amanda Bowen; Joy V. Chavez; Kyle Karsjen
Subject: Request for Input: Doña Ana County Hazard Mitigation Plan Draft Review (Doña Ana)
Attachments: 01_DRAFT_DoñaAna_AHMP_v2.2.docx; A1 _DRAFT_DoñaAna_AHMP_ACRONYMS_v2.2.docx; A2 _DRAFT_DoñaAna_AHMP_GLOSSARY_v2.2.docx; A3 _DRAFT_DoñaAna_AHMP_REFERENCES_v2.2.docx

Good morning Henry,

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08 SECTION HEADER (LPT DRAFT REVIEW)

Local Planning Team Pre-Final Draft Review Request

Kymmie Scott

From: Kymmie Scott
Sent: Tuesday, September 2, 2025 8:58 PM
To: Amanda Bowen; Andrew Bowen; Delyce Maciel; Joy V. Chavez; Lorenzo Astorga; Manny Shreves; Mario Juarez-Infante, PE; Mayor Diana Murillo; Michael Garza; Vanessa Ordoñez; Steve Pacheco; Angela Armijo
Cc: Kyle Karsjen; Bradley Nuding; tlittlefield@acdisaster.com; Jessica Henry
Subject: Doña Ana AHMP: Near-Final Draft of Doña Ana County HMP – LPT Review Requested by Sept. 12
Attachments: 01_DRAFT_DoñaAna_AHMP_v3.2.docx

Importance: High

Dear Local Planning Team,

Thank you all for your continued engagement throughout this process. Your collaboration with our planning team to provide, review, and validate information has been essential in shaping a comprehensive and locally relevant mitigation plan.

Attached is the **near-final draft of the Doña Ana County All-Hazards Mitigation Plan (AHMP)** for your review. We're asking all participating jurisdictions to carefully review the draft and return any feedback **no later than end of day, Friday, September 12**. This is our final home stretch before the plan advances to the formal review stages.

Please note the following as you conduct your review:

1. Maps and analysis still in progress.

Several maps and their associated analysis are still being developed. These will be integrated during this review period and finalized prior to public release.

2. Focus areas for review:

We encourage you to pay special attention to the following sections:

- **New content:** Several entirely new sections have been added throughout the document. These are clearly marked with a note asking for LPT review.
- **Jurisdiction-specific content:** Tables and mitigation actions tied to your jurisdiction should be given a **thorough final review**. If your jurisdiction did not submit information for a particular section, we've drafted content based on available data. If information was submitted, we may have revised for clarity. Please validate **all jurisdictional content** to ensure it's accurate and complete.
- **Standard mitigation actions:** Four additional mitigation actions have been added to every jurisdiction's mitigation strategy to support broader emergency management efforts and meet FEMA's requirement of one action per hazard per jurisdiction. While you are **not required** to formally adopt these, your jurisdiction is **encouraged** to include them as part of your strategy.

3. Tracking mitigation actions.

To help with navigation, **each mitigation action spans three sections**:

- Basic information
- Implementation
- Priority

You can follow each action throughout the plan using its assigned tracking number (a letter/number code next to your jurisdiction's name).

4. Questions or support.

If you need clarification or assistance during your review, please don't hesitate to reach out to your assigned planner. We're happy to support however we can.

Once we receive your feedback, we'll adjudicate any changes, incorporate the remaining maps and analysis, and then move into the final review phases: public and adjacent jurisdiction review, followed by State and FEMA reviews.
Thanks again for your time, effort, and commitment to this important planning effort! 😊 We're nearly there, and your input at this final stage will help ensure a strong and actionable mitigation plan for the entire county.

Kindly,
Kymmie

Kymmie Scott, CEM
Project Manager and Tribal Relations Specialist
State, Local, and Commercial Division

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tidalbasingroup.com

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09 SECTION HEADER (ADJACENT DRAFT REVIEW)

Adjacent Jurisdiction Pre-Final Draft Review Request

Kymmie Scott

From: Kymmie Scott
Sent: Wednesday, October 15, 2025 10:33 AM
To: Matthew Clark; Ryan Williams; 'dieterkd@elpasotexas.gov'; 'agriewahn@lincolncountynm.gov'; 'emergency_management@lunacountynm.us'; 'k.sanders@roswell-nm.gov'; 'jarmendariz@eddyoem.com'
Cc: Amanda Bowen; Joy V. Chavez; Kyle Karsjen
Subject: Doña Ana County Multi-Jurisdiction Hazard Mitigation Plan: Adjacent Jurisdiction Review Request

Good morning,

On behalf of Doña Ana County, we are reaching out to request your input on the County's updated Hazard Mitigation Plan, which is now in the final stages of development. As you are familiar with the planning process, you know these plans play a critical role in identifying risks, assessing capabilities, and outlining strategies to reduce the impacts of natural hazards. Updates, required every five years by FEMA, help ensure continued eligibility for mitigation funding and reflect current conditions and priorities.

As a neighboring jurisdiction and fellow mitigation planning partner, your feedback is important to us. We invite you to review the draft plan and share any comments, suggestions, or insights that could help strengthen regional coordination and hazard resilience.

You can access the draft plan here: Doña Ana COUNTY All Hazard Mitigation Plan

If you have any feedback, please send it directly to me and copy Kyle Karsjen (kyle.karsjen@tidalbasingroup.com) by October 28, 2026.

Thank you for your continued partnership in building safer, more resilient communities.

Kindly,
Kymmie

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Project Manager and Tribal Relations Specialist
State, Local, and Commercial Division

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10 SECTION HEADER (PUBLIC DRAFT REVIEW)

Request for OEM to post Pre-Final Draft for Public Review

OEM website post of Pre-Final Draft for Public Review

Local Planning Team communication regarding post of Pre-Final Draft for Public Review

Social media graphics for Pre-Final Draft for Public Review

Social media content for Pre-Final Draft for Public Review

Community survey follow up for public review – facilitation email to OEM

Community survey follow up for public review – draft email langauge

Kymmie Scott

From: Kymmie Scott
Sent: Thursday, October 2, 2025 7:30 AM
To: Amanda Bowen; Joy V. Chavez
Cc: Kyle Karsjen; Bradley Nuding; Tory Littlefield; Jessica Henry
Subject: Doña Ana MJHMP: Pre-Final Draft MJHMP Ready for Public Review Posting
Attachments: Pre-FINAL DRAFT_DoñaAna_MJHMP.pdf; Doña Ana AHMP Social Media Content - Public Review 30SEP25.docx; Doña Ana AHMP Website Content - Public Review 30SEP25.docx; DonaAna-MJHMP-social1.jpg; DonaAna-MJHMP-social2.jpg

Hi Amanda and Joy,

Good news this morning - the pre-final draft of the Multi-Jurisdictional Hazard Mitigation Plan is **officially ready for public review**!

My recommendation is to post the PDF version of the draft to the County website so that the review period can begin. Included in today's delivery are:

- Pre-final draft of the MJHMP
- Updated website content for posting alongside the plan
- Social media outreach content and graphics
- A Microsoft Form link to collect feedback (this is embedded in the website content)

I'll be sending the plan out to adjacent jurisdictions tomorrow to initiate their review period and will also send a message to the LPT notifying them that the public review period is live. That message will encourage LPT members to share the County's social media posts and invite their staff and community members to review the draft and provide input. Both OEM and LPT members are welcome to continue submitting feedback to us during this time as well.

If there are any issues getting the plan posted tomorrow (or by Monday at the latest) just let me know and we can tweak the materials to reflect a new start date.

Once this review period closes, we'll adjudicate the feedback and move into state review. I'll also be sending a courtesy heads-up to the state team tomorrow to let them know we plan to submit later this month.

Please don't hesitate to reach out with any questions or concerns in the meantime.

Kindly,
Kymmie

Kymmie Scott, CEM
Project Manager and Tribal Relations Specialist
State, Local, and Commercial Division

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Multi-Jurisdictional Hazard Mitigation Plan

Contact

Office of Emergency Management

oem@donaana.gov



Welcome to the update site for the Doña Ana County All Hazards Mitigation Plan.
The 2025 AHMP update will be conducted throughout spring and summer. Public notices, draft plans, and links to relevant resources will be posted here throughout the update process.

Public Notices and Project Updates

The Doña Ana County Office of Emergency Management invites the public to review and provide feedback on the pre-final draft of the Multi-Jurisdictional Hazard Mitigation Plan. The draft plan will be available for review from **October 14-28, 2025**.

Public review is a vital part of the hazard mitigation planning process. FEMA requires communities to engage the public before a plan can be approved, but more importantly, your input ensures the plan reflects local knowledge and priorities. Residents often know about risks, challenges, and opportunities that may not be captured through data alone.

Please use the **Feedback Form** to share your comments, suggestions, or additional information. Your participation helps us strengthen the plan and build a safer, more resilient community.

Multi-Jurisdictional Hazard Mitigation Draft Plan
Feedback Form Link

Search the FAQs...

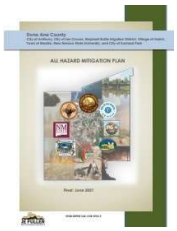
All Hazards Mitigation Plan Update

- What is the Doña Ana County All Hazards Mitigation Plan?
- How Can You Participate in the Update?
- Hazard Mitigation Planning?

References and Resources

2021 Doña Ana County All Hazards Mitigation Plan

The 2021 AHMP assessed the risk of dam failure, drought, extreme cold, flooding, severe wind, thunderstorms (lightning and hail), and wildfire. The AHMP encompasses Doña Ana County, City of Las Cruces, Village of Hatch, Town of Mesilla, City of Sunland Park, Elephant Butte Irrigation District, New Mexico State University, and City of Anthony.



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From: Kymmie Scott
Sent: Wednesday, October 15, 2025 10:00 AM
To: Andrew Bowen; Delyce Maciel; Lorenzo Astorga; Manny Shreves; Mario Juarez-Infante, PE; Mayor Diana Murillo; Michael Garza; Vanessa Ordoñez; Steve Pacheco; Angela Armijo
Cc: Kyle Karsjen; Bradley Nuding; Tory Littlefield; Jessica Henry; Amanda Bowen; Joy V. Chavez
Subject: Doña Ana AHMP (now MJHMP): Public Review Period Now Open
Attachments: Doña Ana AHMP Social Media Content - Public Review 15OCT25.docx; DonaAna-MJHMP-social1.jpg; DonaAna-MJHMP-social2.jpg

Dear Local Planning Team,

I'm pleased to share that the pre-final draft of the Doña Ana County Multi-Jurisdiction Hazard Mitigation Plan (MJHMP) is now posted on the County's website and available for public review. A feedback form is also linked on the same page to allow community members to easily submit their comments. The public review period began yesterday and will run through October 28, 2025. LPT members are welcome (and encouraged) to continue submitting feedback during this time as well. We've made several key updates in this draft, including:

- Alignment of mitigation actions with FEMA's Community Lifelines
- Highlight boxes showcasing successful mitigation projects from the previous plan
- A new Funding Annex to help jurisdictions identify potential implementation resources

To help spread the word, I've attached a set of graphics and sample social media language that your jurisdiction is welcome to use. We also encourage you to share this opportunity through other channels such as newsletters, community meetings, or your website. Here is the website where the plan and feedback form are posted: Dona Ana County, NM

Later today, the plan will also be sent to adjacent jurisdiction emergency management offices so those partners have a chance to review and provide input as part of the formal FEMA process. After the public and adjacent jurisdiction review period closes, the planning team will adjudicate all feedback and prepare the draft for submission to the New Mexico Department of Homeland Security and Emergency Management (DHSEM). Once DHSEM has reviewed and we've made any needed updates, the plan will then be sent to FEMA for final review. While we don't have control over how long the State or FEMA reviews will take, our hope is to have the plan finalized and approved by the end of this year.

If you have any questions or would like support during this final phase, please don't hesitate to reach out. Thanks again for your partnership and continued dedication to this effort.

Kindly,
Kymmie

Kymmie Scott, CEM
Project Manager and Tribal Relations Specialist
State, Local, and Commercial Division

Be stronger than before

M: 970.531.1577 kymmie.scott@tidalbasingroup.com
tidalbasingroup.com

My working hours may not be your working hours. Please do not feel obligated to reply outside of your normal work schedule.

HELP US REDUCE DISASTER RISKS!





MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN

Review the plan, submit your feedback, and help Doña Ana County become more resilient.

Social media blurbs (short, traffic-driving posts – pair with graphic):

The draft 2025 Doña Ana County Multi-Jurisdictional Hazard Mitigation Plan (MJHMP) is ready for public review! Share your input Oct 14-28 to help shape our community's resilience. Review the draft and submit feedback here: [website link]

Your voice matters. Doña Ana County is updating its Multi-Jurisdictional Hazard Mitigation Plan (MJHMP), and we need your input. Public review runs Oct 14-28. Check out the draft and provide comments: [website link]

Help us reduce disaster risks in Doña Ana County. Review the draft Multi-Jurisdictional Hazard Mitigation Plan (MJHMP) and share your feedback by Oct 28. Together we can build a safer, stronger community. Start here: [website link]

Link:
https://www.donaana.gov/departments/law_safety/office_of_emergency_management/local_emergency_plans/all_hazards_mitigation_plan_update.php#collapselinks-479-20b2

Subject: Doña Ana County Hazard Mitigation Plan – Public Review Now Open

Dear Community Member,

Thank you again for taking the time to share your thoughts during the public survey for the Doña Ana County Multi-Jurisdictional Hazard Mitigation Plan. Your input plays an important role in strengthening our communities' resilience to future hazards.

We're pleased to let you know that the pre-final draft of the plan is now available for public review. You can view the full draft and submit your feedback using the Microsoft Form linked on the County's website.

Review the Plan & Submit Feedback:
https://www.donaana.gov/departments/law_safety/office_of_emergency_management/local_emergency_plans/all_hazards_mitigation_plan_update.php#collapselinks-479-20b2

The public review period will remain open through October 28, 2025.

Your feedback helps ensure the final plan reflects local needs, priorities, and concerns so we encourage you to take a few minutes to review the draft and share your thoughts.

Thank you again for your interest and involvement in making Doña Ana County safer and more resilient for all who live and work here.

Warm regards,

Kymmie Scott

From: Kymmie Scott
Sent: Thursday, October 16, 2025 8:26 AM
To: Amanda Bowen; Joy V. Chavez
Cc: Kyle Karsjen
Subject: Doña Ana MJHMP: Community survey emails & public draft posting outreach
Attachments: DoñaAna_MJHMP_ContactEmails.xlsx; DoñaAna_MJHMP_EmailContact_Outreach.docx

Hi Amanda and Joy,

As noted on our call yesterday, we collected emails from individuals who participated in the public survey early in the planning process who indicated that they would like to remain involved in the process. Those emails, along with draft email language that you can use to reach out to them and let them know about the public review period, are attached here. Please let me know if you have any questions or if I can do anything else to support the process.

Kindly,
Kymmie

Kymmie Scott, CEM
Project Manager and Tribal Relations Specialist
State, Local, and Commercial Division

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TIDAL BASIN

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Board of Regents Meeting
Meeting Date: October 1, 2026
Agenda Item Cover Page

Agenda Item # XIV

☐ Action Item
☐ Consent Item
☒ Informational Item

Presented By: Jeff Witte
Cabinet Secretary & Director
New Mexico Department of Agriculture

Agenda Item: Report from the New Mexico Department of Agriculture to the Regents of New Mexico State University (Board of Agriculture)

Requested Action of the Board of Regents: None. Informational only.

Executive Summary:

This is a quarterly report provided to the Board of Regents from the New Mexico Department of Agriculture

References:

See attached report.

Prior Approvals:
N/A

New Mexico Department of Agriculture

BOARD OF REGENTS REPORT
October 1, 2026

Livestock Trade Resumed

Secretary Jeff Witte and Deputy Director Les Owen along with USDA Under Secretary Dudley Hoskins witnessed the reopening of the Santa Teresa Livestock crossing in Santa Teresa, NM. Livestock trade resumed on September 24 at the Santa Teresa port after a 16-month closure due to New World Screwworm. The Santa Teresa port is the second U.S. port to reopen as the USDA gradually restores livestock trade along the southern border. It is also the United States largest livestock port of entry. Approximately 400 Mexican cattle crossed the port on the first day.





New Mexico Department of Agriculture: New World Screwworm Update

New Mexico animal health officials have confirmed the state's second case of New World screwworm. The case was identified September 17 in a horse in Grant County. In response, state and federal animal health officials are increasing surveillance and fly trapping in the area surrounding the affected location. These efforts are intended to identify any additional cases and determine whether New World screwworm has spread beyond the affected animal. State and federal officials continue to coordinate closely with veterinarians, livestock producers, and local partners to conduct surveillance, investigate suspected cases, and implement appropriate response measures as needed.

NASDA

At the recent National Association of State Departments of Agriculture (NASDA), Secretary Witte was asked to continue serving as Chair of the Natural Resources and Environment Committee and was asked to serve as an at-large member of the NASDA Foundation Board of Directors.

Kenya and Rwanda Trade Mission

Secretary Jeff Witte was invited to serve on the NASDA delegation for a trade mission to Kenya and Rwanda from August 25 through September 4. In Kenya, the delegation met with government officials and industry leaders on producer support, innovation, and trade and investment. They also visited the Farmer's Choice and Ol Pejeta Conservancy to explore meat processing, livestock systems and the connection between commercial ranching and conservation and community development. In Rwanda, the delegation attended high-level sessions on food systems, finance and livestock value chains, and private-sector leadership at the Africa Food Systems Forum.











USDA and New Mexico Department of Agriculture Roundtable

USDA Secretary of Agriculture Brooke Rollins and NMDA Secretary Witte invited NMF&LB President and agriculture industry leaders for a stakeholder roundtable and press conference at the Santa Teresa Cattle Crossing on September 17. The roundtable provided an opportunity for New Mexico livestock leaders to share their concerns about the reopening of the cattle crossing and hear directly from USDA officials.





Jardin de Tortugas Pueblo

Secretary Witte attended the dedication of the Jardin de Tortugas Pueblo educational garden at the Farm & Ranch Heritage Museum. The area was designed by the Tortugas Pueblo community to show the importance of local plants and Native uses and culture that connects agriculture in New Mexico.

NMSU Soil and Water Testing Lab: Progress Report

Since April, NMDA has partnered with NMSU ACES Center of Excellence in Sustainable Food and Agricultural Systems (CESFAS) to restart NMSU's soil and water testing laboratory. NMDA and ACES' joint goal is to establish an accredited lab that can support NMDA programs and provide high-quality test results and interpretation to New Mexico producers and citizens. Throughout the summer, ACES has been busy preparing the lab facility, procuring equipment, hiring staff, and developing operational plans. Lab testing services will be rolled out during the fall, with the target of providing the full suite of testing services by the end of 2026.

New Mexico Soil Health Conference on October 14-15

NMDA and NMSU Cooperative Extension Service (CES) are co-sponsoring the 2026 New Mexico Soil Health Conference on October 14-15, 2026, in Albuquerque's agriculturally rich South Valley. The event will feature a day of speakers, including New Mexico farmers and ranchers speaking about their firsthand experience implementing soil health practices, and half-day of field demonstrations showing different ways to measure soil health. This is the second iteration of the conference and NMDA and NMSU-CES intend to host the event every other year to advance awareness and implementation of the five soil health principles in New Mexico.

Land of Enchantment Legacy Fund: NMDA awards over $4 million in grants for conservation programs in fiscal year 2027

For fiscal year 2027, NMDA awarded just over $4 million to 85 grants for three programs: Healthy Soil Program, Noxious Weed Management Program, and District Opportunities Grant. These grants were primarily funded by the Land of Enchantment Legacy Fund, which provides an annual distribution of revenues to NMDA. Projects will occur in 26 counties across New Mexico. As the reach of these three programs has grown, so too has the demand-- nearly $8 million in funding was requested in FY27 grant cycle.

NMDA Administering Special Appropriations to Support Soil and Water Conservation Districts

NMDA is currently administering two special appropriations from the New Mexico Legislature to support the state's 47 soil and water conservation districts (SWCDs). The first appropriation ($9 million, FYs 26-28) is directly funding each SWCD for capacity building, including staffing needs, trainings, administrative and technical support, public outreach, and business operations. The second appropriation ($1 million, FY27) is earmarked for SWCD training. NMDA is working with a contractor to train SWCD supervisors and employees on district responsibilities, develop educational materials, and coordinate technical trainings to meet SWCD needs.

Large Capacity Scales Inspection Truck

Standards and Consumer Services received a new Large Capacity Scales truck. The truck was acquired through legislative funding from the 2026 session and will support the inspections of large scales throughout New Mexico.





NMDA Metrology Laboratory:

The NMDA Metrology Laboratory underwent an audit by the National Voluntary Laboratory Accreditation Program (NVLAP) for ISO/IEC 17025:2017 accreditation and successfully received accreditation. The laboratory vacated accreditation upon moving from our old facility into the new NMDA laboratory. This accreditation allows for an expansion of calibration services the laboratory can provide to our customers who require services from an accredited laboratory to meet their accrediting bodies' needs.

Domestic Marketing:

New Mexico State Fair:

September 10-20 September 10-20, 2026- The 2026 New Mexico State Fair took place in Albuquerque, New Mexico in the historical Agriculture Building on the Expo New Mexico grounds. NMDA's role included planning and installing various agricultural exhibits and interactive displays, coordinating and implementing several promotional events, working with a contractor to promote and sell New Mexico foods, beverages, and other agriculture related products in the New Mexico—Taste the Tradition® Country Store, and selecting and hosting Expo New Mexico's Farm Family of the Year. NMDA also assisted with the annual New Mexico 4-H Food Challenge event and the New Mexico State Fair High School Culinary Competition. The promotional events included the Battle of the Salsas, the Original New Mexico Green Chile Cheeseburger Challenge, Reds, Whites, and Brews Happy Hours, and the New Mexico Watermelon Carving Demo and Tasting.
















NEW MEXICO
VIVA
VINO
NEW MEXICO WINE





Get Your Fix (GYF):

DC NMSU-NMDA Annual Get Your Fix Green Chile Roast:

The popular New Mexico Get Your Fix Green Chile Roast returned to Washington DC again in 2026. The NMSU Sam Steele Council, supported by NMDA, successfully coordinated a green chile roasting at a Balducci's grocery store. Over 2,000 pounds of green chile were roasted for alumni, ex-pats, foodies, and local consumers.





NMDA has wrapped up the Get your Fix Promotion where staff coordinate New Mexico green chile training workshops with retailers nationwide. These workshops are designed to equip retail staff with the knowledge and skills needed to successfully execute New Mexico fresh green chile promotions. Training topics include proper roasting techniques and safety procedures, merchandising and marketing best practices, promotional strategies to increase consumer awareness and sales, and overall event planning and operations to ensure successful chile roasting events. As part of these efforts, NMDA staff recently conducted workshops/events for Stew Leonard's in Younkers, NY, UNM Alumni in Saratoga, CA and Denver, CO, and Kroger Grocery in Atlanta, GA.















2026 New Mexico Farm and Ranch Families of the Year

The New Mexico Department of Agriculture and the New Mexico State Fair recognized the 2026 New Mexico Farm and Ranch Families of the Year Sept. 17 during the rodeo at the Expo New Mexico fairgrounds.

The Achen family of Triple A Farms in Las Cruces, named Farm Family of the Year and the Lantana family of Crownpoint, named Ranch Family of the Year.

Buddy Achen founded Triple A Farms in 1992 with 65 acres of pecan trees and has since grown the operation to nearly 1,200 acres. Today, his son Derek helps manage the farm and the family's pruning business, Precision Hedging. The Achen family is also developing an agritourism and event venue to showcase New Mexico pecans and other local commodities.

Fourth-generation rancher Marjorie Lantana leads her family's Black Angus cow-calf operation in northwest New Mexico. Today, her children and grandchildren help run the ranch, while the family supports agriculture and rural communities through industry leadership and youth programs, including 4-H and the Eastern Navajo Junior Livestock Show and Archery Event



