

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 35 LIVESTOCK MARKETING
PART 6 ANIMAL ENTERPRISE PROTECTION

21.35.6.1 ISSUING AGENCY: New Mexico Livestock Board.
[21.35.6.1 NMAC - N, 12/31/2012]

21.35.6.2 SCOPE: The protections accorded by these regulations extend to livestock enterprises in the State of New Mexico.
[21.35.6.2 NMAC - N, 12/31/2012]

21.35.6.3 STATUTORY AUTHORITY: Sections 77-2-1, 77-2-7, 77-2-22 and such other regulatory authority as provided in Chapter 77 NMSA 1978. Additional authority is the federal Animal Enterprise Terrorism Act, 18 U.S.C. Section 43 and decisional authority under that penal statute and its predecessor Animal Enterprise Protection Act. See *United States v. Fullmer*, 584 F.3d 132 (3d Cir.), cert denied, *Kjonaas v. United States*, 2011 U.S. LEXIS 1930 (2011); *United States v. Buddenberg*, 2009 U.S. Dist. LEXIS 100477 (N.D. Cal. 2009).
[21.35.6.3 NMAC - N, 12/31/2012]

21.35.6.4 DURATION: Permanent.
[21.35.6.4 NMAC - N, 12/31/2012]

21.35.6.5 EFFECTIVE DATE: December 31, 2012, unless a later date is cited at the end of a section.
[21.35.6.5 NMAC - N, 12/31/2012]

21.35.6.6 OBJECTIVE: To afford livestock animal enterprises in New Mexico protection against animal enterprise terrorism. These regulations do not, nor could they, undermine or detract in any manner from the force and effect of federal law, which provides protection to animal enterprises under 18 U.S.C. Section 43, together with any other applicable federal penal laws, such as stalking, conspiracy, and the use of telecommunications devices to abuse, threaten and harass. These regulations do not, nor could they, undermine or detract in any manner from the force and effect of applicable state law.
[21.35.6.6 NMAC - N, 12/31/2012]

21.35.6.7 DEFINITIONS:

- A. "Animal" means livestock including cattle, sheep, swine, bison, goats, horses, mules, asses, poultry, ratites, camelids and farmed cervidae.
 - B. "Board" means the New Mexico livestock board.
 - C. "Immediate family member" means the spouse, parent, brother or sister, child or person to whom he stands in loco parentis, or any other person living in his household and related to him by blood or marriage.
 - D. "Livestock animal enterprise" means a commercial or academic enterprise that uses or sells livestock animals or livestock animal products for profit, food or fiber production, agriculture, education, research, testing, breeding; rodeo or other lawful competitive animal event; or a fair or similar event intended to advance agricultural arts and sciences. The term "livestock animal enterprise" also includes persons, firms and entities licensed by the New Mexico livestock board, including licensed horse rescues, licensed meat dealers, licensed slaughterers, and licensed livestock auction markets.
 - E. "Serious bodily injury" means injury posing a substantial risk of death; extreme physical pain; protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ or mental faculty.
- [21.35.6.7 NMAC - N, 12/31/2012]

21.35.6.8 PROHIBITION AGAINST FORCE, VIOLENCE AND THREATS INVOLVING LIVESTOCK ANIMAL ENTERPRISES:

- A. Whoever, for the purpose of damaging or interfering with the operations of a livestock animal enterprise, and in connection with such purpose:
 - (1) intentionally damages any real or personal property, intentionally causes to suffer or contributes to the suffering or prolonged suffering of any livestock animal or intentionally causes the loss of any real or personal property (including livestock animals or records) used by a livestock animal enterprise, or any real or personal

property of a person or entity having a connection to, relationship with, or transactions with a livestock animal enterprise;

(2) intentionally places a person in reasonable fear of the death of, or serious bodily injury to, that person, a member of the immediate family of that person, or a spouse or intimate partner of that person by conduct involving threats, acts of vandalism, property damage, criminal trespass, harassment, or intimidation; or

(3) violates the criminal laws of this state, including, without limitation, the criminal trespass statute at NMSA 1978, Section 30-28-1; the harassment and stalking statutes at NMSA 1978, Sections 30-3A-2, -3 and -3.1; and the computer abuse statute at NMSA 1978, Section 30-45-4; shall be punished as provided in NMSA 1978, Section 77-2-22 (providing a misdemeanor penalty, unless otherwise provided by law, for persons who violate board rules).

B. Exemption for government: These regulations do not apply to governmental conduct, state or federal. Law enforcement and regulatory activities of the New Mexico livestock board and its inspectors, of the USDA, of other peace officers and prosecutorial; officers are not impaired or affected by these regulations.

[21.35.6.8 NMAC - N, 12/31/2012]

HISTORY OF 21.35.6 NMAC: [RESERVED]

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 30 ANIMALS AND ANIMAL INDUSTRY GENERAL PROVISIONS
PART 8 USE OF LIVESTOCK DRUGS AND BIOLOGICALS

21.30.8.1 ISSUING AGENCY: New Mexico Livestock Board.
[21.30.8.1 NMAC - N, 12/31/2012]

21.30.8.2 SCOPE: All manufacturers, importers, distributors and users of livestock drugs and biologicals, including all serums, vaccines and other biologicals intended for administration, injection or use to or upon livestock, and including virulent blood or living virus of any disease affecting livestock.
[21.30.8.2 NMAC - N, 12/31/2012]

21.30.8.3 STATUTORY AUTHORITY: Section 77-2-7 NMSA 1978.
[21.30.8.3 NMAC - N, 12/31/2012]

21.30.8.4 DURATION: Permanent.
[21.30.8.4 NMAC - N, 12/31/2012]

21.30.8.5 EFFECTIVE DATE: December 31, 2012, unless a later date is cited at the end of a section.
[21.30.8.5 NMAC - N, 12/31/2012]

21.30.8.6 OBJECTIVE: To protect livestock in New Mexico against disease and to safeguard and promote therapeutic and efficacious livestock drugs and biologicals.
[21.30.8.6 NMAC - N, 12/31/2012]

21.30.8.7 DEFINITIONS:
A. "Board" means the New Mexico livestock board.
B. "Livestock" means cattle, sheep, swine, bison, goats, horses, mules, asses, poultry, ratites, camelids, and farmed cervidae.
[21.30.8.7 NMAC - N, 12/31/2012]

21.30.8.8 MANUFACTURER REGISTRATION REQUIREMENTS:
A. Permit required: No person, firm, corporation or company shall import into New Mexico, distribute, administer or use within New Mexico or manufacture within New Mexico, any livestock drugs and biologicals, including all serums, vaccines and other biologicals intended administration, injection or use to or upon livestock, and including virulent blood or living virus of any disease affecting livestock, unless the manufacturer of the livestock drugs or biologicals has first obtained a permit from the state veterinarian of the New Mexico livestock board.
B. Application required: Any manufacturer who wishes to import into New Mexico, distribute, administer or use within New Mexico or to manufacture within New Mexico, any livestock drugs or biologicals, as provided in paragraph A, must first make a timely and proper application to the state veterinarian of the New Mexico livestock board requesting permission to do so.
C. Application form: A letter requesting permission or registration must include the name, address and primary contact telephone number of the applicant. The correspondence must also provide product name and description and protocol and labeling information. The livestock board may charge a fee for the registration permit, including a renewal fee, in an amount not to exceed \$100 pursuant to Subsection K of Section 77-2-7.
D. Approval authority: The authority to approve and to issue a permit rests with the state veterinarian of the New Mexico livestock board.
E. Duration of permit: Permits must be renewed by renewal application made annually to the state veterinarian.
F. Conditions of approval: In order to receive approval, the drugs or biologicals must first be approved by the proper federal approval authority, either the USDA, EPA or FDA, or by a state's approval authority for conditional use drugs or biologics. The drugs or biologicals must be used, injected or administered according to the protocols, conditions for use and other restrictions established by the manufacturer and the federal approval authority respecting each drug or biological. The state veterinarian may establish other conditions as he determines necessary to safeguard New Mexico's livestock and may disallow importation, distribution and use within New

Mexico of drugs or biologicals if the state veterinarian determines that the use of those drugs or biologicals would undermine or threaten the board's ability to protect the health and safety of New Mexico's livestock, subject to board review if contested.

G. Investigational drugs: Investigational drugs and biologicals intended for livestock use are also subject to the prior approval and permitting requirements of this rule.

H. Fees:

- (1) The same fees apply to initial registration permits and to renewed permits.
- (2) For products with unrestricted licenses, the fee of each manufacturer is \$50.00 for the first product and \$25.00 for each similar product.
- (3) For products with conditional use licenses, the fee for each manufacturer is \$75.00 for each product.
- (4) For unlicensed, investigational use products the fee for each manufacturer is \$100.00 for each product.

[21.30.8.8 NMAC - N, 12/31/2012]

HISTORY OF 21.30.8 NMAC: [RESERVED]