

This rule was filed as: 18 NMAC 28.5.

TITLE 18 TRANSPORTATION AND HIGHWAYS
CHAPTER 28 HIGHWAY CONTRACTING AND BIDDING
PART 5 MOWING OF RIGHTS-OF-WAY

18.28.5.1 ISSUING AGENCY: New Mexico State Highway and Transportation Department
P.O. Box 1149 Santa Fe, New Mexico 87504-1149 (505)827-5498.
[Recompiled 11/16/01]

18.28.5.2 SCOPE: The material in this Part was derived from that previously filed with the State Records
and Archives under: SHTD Rule 87-2(L), Rule for Mowing of Rights-of-Way, filed July 1, 1987.
[Recompiled 11/16/01]

18.28.5.3 STATUTORY AUTHORITY: This rule is adopted pursuant to NMSA 1978 Sections 67-3-11 and
67-3-13.
[Recompiled 11/16/01]

18.28.5.4 DURATION: Permanent.
[Recompiled 11/16/01]

18.28.5.5 EFFECTIVE DATE: October 31, 1998, unless a later date is cited at the end of a section or
paragraph.
[Recompiled 11/16/01]

18.28.5.6 OBJECTIVE: The purpose of this rule is to establish regulations to enable the State Highway and
Transportation Department to enter into written agreements with private citizens, firms or corporations to mow
within designated state highway rights-of-way.
[Recompiled 11/16/01]

18.28.5.7 DEFINITIONS: [RESERVED]
A. "Department" means the New Mexico State Highway and Transportation Department.
B. "Permittee" means a person, firm or corporation who has applied for and received a permit from
the Department for the express purpose of mowing the state highway rights-of-way.
C. "Mowing Guidelines" means the Department guidelines governing the mowing of highway rights-
of-way as set out in Section 9, subparagraphs 9.3.8 through 9.3.18 [Paragraphs 8 through 18, Subsection C., Section
9 of 18.28.9 NMAC] of this Rule.
[Recompiled 11/16/01]

18.28.5.8 APPLICABILITY: This rule is applicable for mowing activities on state highway rights-of-way
only.
[Recompiled 11/16/01]

18.28.5.9 PROCEDURE:
A. Application by Sponsor. No person, firm or corporation shall mow any portion of the state
highway rights-of-way and keep the clippings from such mowing without first obtaining a written permit from the
Department. Application for a permit shall be submitted to the appropriate District Engineer using forms provided
by the Department. Permits shall be for a specific mowing season. Consideration for permit applications to mow a
given area of rights-of-way will be granted first to the adjacent land owner with all others approved on a first
come/first served basis. There will be no fee for the permit. A copy of the permit shall be available on the work site
for inspection at all times.
B. Review of Application. The Secretary of the Department or his designee shall review the
application and, when necessary, coordinate with the local authorities within whose jurisdiction the mowing is to
take place.

C. Notice of action taken by the Department. The Secretary of the Department or his designee shall inform the sponsor in writing of the action taken on the notice, including all conditions imposed if approval is granted. Such conditions include without limitations:

(1) The requirement that the sponsor make adequate provisions for traffic control (i.e., law enforcement, traffic control devices and/or signing).

(2) The requirement that the sponsor and/or the participants in the mowing and baling operations execute releases of liability, indemnity and hold harmless agreements and also submit proof of insurance coverage for any liability arising out of the mowing and baling activities, in forms satisfactory to the Department.

(3) The permittee shall carry and keep in force liability insurance during the permit period in the following minimum amounts:

(a) Bodily Injury \$300,000 each occurrence

(b) Property Damage \$100,000 each occurrence

(c) Total Liability \$ 500,000

(4) The permittee shall be held responsible for any damage to fences, signs, guardrail, landscape plantings or other highway features resulting from his operations.

(5) Should permittee fail to comply with the provisions of this rule and the permit, the Department may revoke the permit until the permittee agrees to comply with any and all provisions required by the Department.

(6) The Department is not liable for the quality of the hay or clippings obtained through this agreement and the applicant assumes all risk of injury or damage to himself, his property or to others or to the property of others which may result from debris, foreign objects or chemical contamination of such hay or clippings.

(7) Mowing of state highway rights-of-way by the applicant will be done with the full knowledge that the vegetation may contain chemical residue of automotive emissions and chemical herbicides used for vegetative control.

(8) The permittee shall erect and maintain standard warning signs for mowing operations in compliance with Part VI of the Manual on Uniform Traffic Control Devices (MUTCD), latest edition and the Departments Maintenance Traffic Control Plans. All mowing and baling equipment shall have the standard "Slow Moving" vehicle emblems.

(9) Mowing shall conform to specifications as provided in the permit issued by the Department.

(10) No mowing will be allowed on newly constructed or planted rights-of-way for a period of three (3) years.

(11) The permittee will confine his operations to daylight hours.

(12) When soil conditions are such that damage to the slopes is caused by mowing and baling equipment, operations shall be discontinued.

(13) When the Department determines and verbally notifies that the operations are creating an undue hazard, all operations will cease until further notice from the District Engineer.

(14) All mowing will be done in a workman-like manner and the mowed area shall be left in a neat condition upon completion of the work. Mowing will be continuous within the designated area. Selective mowing of vegetation will not be permitted. However, the permittee will be allowed to bale only those areas of vegetation he chooses.

(15) Equipment necessary for this operation will not be left unattended on the rights-of-way within thirty (30) feet of the roadway shoulder.

(16) All hay must be removed from the highway right-of-way within ten (10) days after baling. Any bales not so removed may be removed by the Department without compensation to the permittee.

(17) Large round or rectangular bales will not be left unattended on the rights-of-way within thirty (30) feet of the roadway shoulder.

(18) No mowing will be permitted in wildflower areas.

[Recompiled 11/16/01]

HISTORY OF 18.28.5 NMAC:

Pre-NMAC Regulatory Filing History: The material in this part was derived from that previously filed with the State Records Archives under: SHTD Rule 87-2(L), Rule for Mowing of Rights-of-Way, filed July 1, 1987. /15/94.

History of Repealed Material: [RESERVED]