

**TITLE 21      AGRICULTURE AND RANCHING**  
**CHAPTER 17   PEST, DISEASE, AND WEED CONTROL**  
**PART 31       PINK BOLLWORM PERMANENT PLOWDOWN**

**21.17.31.1      ISSUING AGENCY:** New Mexico State University, New Mexico Department of Agriculture  
[12/16/96; 21.17.31.1 NMAC - Rn & A, 21 NMAC 17.31.1, 05/29/09]  
[MSC 3189, Box 30005, Las Cruces, New Mexico 88003-8005, Telephone No. (575) 646-3007]

**21.17.31.2      SCOPE:** Any person producing cotton or owning land on which cotton is grown in New Mexico.  
[12/30/86; 2/4/87; 1/4/88; 5/28/93; 1/7/94; 12/15/95; 12/16/96; 11/15/97; 21.17.31.2 NMAC - Rn, 21 NMAC  
17.31.2, 05/29/09]

**21.17.31.3      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 Compilation.  
[12/30/86; 2/4/87; 1/4/88; 5/28/93; 1/7/94; 12/15/95; 12/16/96; 21.17.31.3 NMAC - Rn, 21 NMAC 17.31.3,  
05/29/09]

**21.17.31.4      DURATION:** Permanent.  
[12/16/96; 11/15/97; 21.17.31.4 NMAC - Rn, 21 NMAC 17.31.4, 05/29/09]

**21.17.31.5      EFFECTIVE DATE:** November 15, 1997, unless a different date is cited at the end of a section  
or paragraph.  
[12/16/96; 11/15/97; 21.17.31.5 NMAC - Rn, 21 NMAC 17.31.5, 05/29/09]

**21.17.31.6      OBJECTIVE:** The objective of Part 31, Chapter 17 is to establish a permanent cotton plowdown  
date to reduce overwintering populations of pink bollworm.  
[12/30/86; 2/4/87; 1/4/88; 5/28/93; 1/7/94; 12/15/95; 12/16/96; 11/15/97; 21.17.31.6 NMAC - Rn, 21 NMAC  
17.31.6, 05/29/09]

**21.17.31.7      DEFINITIONS:**  
A.      **"Department"** means the New Mexico department of agriculture.  
B.      **"Director"** means the director of the New Mexico department of agriculture.  
C.      **"Plowdown"** means destruction of cotton plants by shredding followed by plowing or by other  
appropriated means to prohibit the presence of any cotton plants or cotton residue on the soil surface. All plant  
residue shall be buried 6 inches or more below the soil surface.  
[12/16/96; 11/15/97; 21.17.31.7 NMAC - Rn, 21 NMAC 17.31.7, 05/29/09]

**21.17.31.8      PINK BOLLWORM PERMANENT PLOWDOWN:**  
A.      In order to reduce the overwintering population of pink bollworm in New Mexico, the director  
designates February 1 of every year as a permanent date for completion of plowdown of all cotton plants in New  
Mexico.  
B.      The director may, on written request by a farm owner and/or operator, grant an extension of the  
cotton plowdown date. The director may also, on written request by a farm owner and/or operator, authorize an  
alternative to the method of mechanical destruction of cotton prescribed by the rule.  
C.      The director may exclude a county or may authorize an alternative method of cotton destruction  
prescribed by the rule for a county designated by the USDA, natural resources conservation service (NRCS) where  
the resulting soil erosion rates would be in conflict with the mandated soil erosion requirements as specified by  
NRCS.  
D.      All requests for extensions on initially undestroyed cotton or for approval of an alternative method  
of cotton destruction must be postmarked on or prior to the plowdown date.  
E.      The cotton producers from a county or cotton producing area not infested or threatened by the  
pink bollworm may petition the director to be excluded from the plowdown. All petitions to be excluded must be  
received 30 days prior to the plowdown date.  
[12/30/86; 2/4/87; 1/4/88; 5/28/93; 1/7/94; 12-15-95; 12-16-96; 11-15-97; 21.17.31.8 NMAC - Rn, 21 NMAC  
17.31.8, 05/29/09]

**21.17.31.9 DISPOSITION OF VIOLATORS:**

A. Any cotton field within the regulated area found not in compliance of the plowdown requirements will be in violation of the Pest Control Act, Section 76-6-6 NMSA 1978. The department will take emergency action as necessary to prevent and retard the spread of the pink bollworm in accordance with the provision of the Pest Control Act and shall:

(1) immediately give a written notice to any farm owner and to the operator in charge of the field that is in violation of Section 8, instructing the owner and the operator to plowdown cotton plants within five calendar days after the date written notice is issued;

(2) post for a period of three consecutive days a copy of the notice on or in the immediate vicinity of the field in violation, if either the owner or operator cannot be located after a reasonable effort by the department;

(3) have the cotton plants plowed down, if no response is received by the department from either the owner or operator within five calendar days after the date of posting of the notice at the field, or if the department considers the response inadequate.

B. Failure to comply with the requirements as stated above shall be a violation of this rule. The director may take any appropriate action including but not limited to:

(1) referring to the appropriate district attorney;

(2) taking emergency action;

(3) proceeding for a court order requiring plowdown.

C. When a continuing threat of the spread of a pest exists, the director may take reasonable emergency action necessary and may assess an emergency action fee to recover the cost of the emergency action, not to exceed \$1000 per field, against the property owner and/or operator.

D. If it becomes necessary for the department to contract with someone to plowdown the cotton, the farm owner or operator shall reimburse the department the actual cost. After notification to the owner or his agent, if the owner or his agent does not reimburse the department within 30 days after issuance by the department of a bill requesting payment, the director shall refer the delinquent account for collection.

[12/30/86; 2/4/87; 1/4/88; 5/28/93; 1/7/94; 12/15/95; 12/16/96; 11/15/97; 21.17.31.9 NMAC - Rn, 21 NMAC 17.31.9, 05/29/09]

**21.17.31.10 GENERAL RULES:** The board disclaims liability for any costs incident to inspection or compliance with the provisions of this rule.

[12/30/86; 2/4/87; 1/4/88; 5/28/93; 1/7/94; 12/15/95; 12/16/96; 21.17.31.10 NMAC - Rn, 21 NMAC 17.31.10, 05/29/09]

**HISTORY OF 21.17.31 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. 95-11 Emergency Cotton Pest Regulation, filed 12/15/95.

History of Repealed Material:

21 NMAC 17.31, Pink Bollworm Emergency Plowdown, filed 11/18/96 - duration expired 3/15/97.