

**TITLE 21      AGRICULTURE AND RANCHING**  
**CHAPTER 16   AGRICULTURAL WEIGHTS AND MEASURES**  
**PART 7        NEW MEXICO CHILE VERIFICATION AND RECORD REQUIREMENTS**

**21.16.7.1      ISSUING AGENCY:** New Mexico State University, New Mexico Department of Agriculture.  
[21.16.7.1 NMAC - N, 01/17/2012]

**21.16.7.2      SCOPE:** All vendors of New Mexico chile products.  
[21.16.7.2 NMAC - N, 01/17/2012]

**21.16.7.3      STATUTORY AUTHORITY:** Granted to the board of regents of New Mexico state university, under the New Mexico Chile Advertising Act, Chapter 25, Article 11, Sections 1 through 4, New Mexico Statutes Annotated 1978 Compilation.  
[21.16.7.3 NMAC - N, 09/30/2013]

**21.16.7.4      DURATION:** Permanent.  
[21.16.7.4 NMAC - N, 01/17/2012]

**21.16.7.5      EFFECTIVE DATE:** 09/30/2013 unless a later date is cited at the end of a section.  
[21.16.7.5 NMAC - N, 09/30/2013]

**21.16.7.6      OBJECTIVE:** This rule establishes the New Mexico chile advertising requirements for New Mexico chile and products offered for sale containing New Mexico chile.  
[21.16.7.6 NMAC - N, 01/17/2012]

**21.16.7.7      DEFINITIONS:**

- A. "Board" means the board of regents of New Mexico state university.
- B. "Department" means New Mexico department of agriculture.
- C. "Director" means the director of the New Mexico department of agriculture.
- D. "New Mexico chile" referred to in these rules is capsicum annum. Capsicum annum includes all chile varieties comprising that species grown in New Mexico.
- E. "Vendor" means any person or business that is involved in the sale of chile or chile products.
- F. "Verification form" is a guarantee by the submitter that chile sold as New Mexico chile was grown in New Mexico.

[21.16.7.7 NMAC - N, 01/17/2012]

**21.16.7.8      [RESERVED]**

**21.16.7.9      METHOD OF SALE REQUIREMENTS:**

A. A five percent by weight maximum tolerance of non-New Mexico chile is allowed. This tolerance is necessary because of the potential mixture of New Mexico grown and non-New Mexico grown lots on grading tables, harvesting equipment, processing equipment, conveying equipment, cooking pots, display tables, and the use of natural chile derived heat extract.

B. Blending of up to five percent by weight of non-New Mexico chile will be allowed to meet the sales orders for Scoville scale (heat level) and ASTA (color).

[21.16.7.9 NMAC - N, 01/17/2012]

**21.16.7.10     VERIFICATION AND RECORD REQUIREMENTS:**

- A. Submission of verification form requirement for processed chile:
  - (1) Each chile vendor of products offered for sale containing New Mexico chile or product that reasonably implies that the chile peppers are, or the product contains, New Mexico chile, must fill out, sign, and submit a verification form to the department. Verification forms must be submitted within three months of institution of these rules for existing vendors and within one month for new vendors starting a business. The department will supply a verification form (available at the department and on the website) which includes:

- (a) a guarantee by the submitter that record keeping requirements are being met for chile advertised as New Mexico chile;

(b) a guarantee by the submitter that chile sold as New Mexico chile was grown in New Mexico;

(c) a guarantee that the regulations are being followed by those selling chile as New Mexico chile.

(2) The department is empowered to audit the required purchasing and sales records of any vendor coming under the provisions of the New Mexico Chile Advertising Act, Chapter 25, Article 11, Sections 1 through 4, NMSA 1978. These records shall be retained for a period of one year. A business receiving request for records shall permit the inspection immediately or as soon as is practicable under the circumstances not to exceed three business days. Failure to submit the records on request of the department or its authorized agents is a violation of the New Mexico Chile Advertising Act.

**B.** Submission of verification form requirement for fresh chile:

(1) Verification forms must be submitted with each load and followed through to the point of sale. The department will supply a verification form (available at the department and on the website) and includes:

(a) a guarantee by the submitter that record keeping requirements are being met for chile advertised as New Mexico chile;

(b) a guarantee by the submitter that chile sold as New Mexico chile was grown in New Mexico.

(2) Copy of the verification form must accompany each load of fresh New Mexico chile wherever it is sold.

(3) The department is empowered to audit the required purchasing and sales records of any vendor coming under the provisions of the New Mexico Chile Advertising Act, Chapter 25, Article 11, Sections 1 through 4, NMSA, 1978 Compilation. These records shall be retained for a period of one year. Failure to submit the records on request of the department or its authorized agents is a violation of the New Mexico Chile Advertising Act.

(4) Sales of twenty thousand pounds or less of chile peppers per calendar year by the person that grew the chile peppers are exempt from any record keeping requirement.

**C.** The department will maintain a public website that lists all chile product vendors that have submitted verification form(s).

[21.16.7.10 NMAC - N, 09/30/2013]

**21.16.7.11 EMERGENCY WAIVER:** Any or all of the provisions of this rule may be temporarily waived by the director when he determines, at his discretion, that an emergency warrants such waiver.

[21.16.7.11 NMAC - N, 01/17/2012]

**HISTORY OF 21.16.7 NMAC:** [RESERVED]