

This rule was filed as 19 NMAC 20.2.

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 20 FOREST MANAGEMENT
PART 2 TREE HARVESTING AND FOREST REGENERATION

19.20.2.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Forestry Division
[12/31/96; Recompiled 12/31/01]

19.20.2.2 SCOPE: This Part applies to all persons, associations, corporations and other legal and governmental entities engaged in harvest activities on non-municipal or non-federal lands, and to the general use of forests.
[10/26/70, 11/14/79, 12/19/89; Recompiled 12/31/01]

19.20.2.3 STATUTORY AUTHORITY: This Part is adopted pursuant to the authority granted the energy, minerals and natural resources department (department) in Section 9-1-5 NMSA 1978 and the division pursuant to Section 68-2-16 of the Forest Conservation Act, Section 68-2-1 to 68-2-25 NMSA 1978.
[10/26/70, 11/14/79, 12/19/89; Recompiled 12/31/01]

19.20.2.4 DURATION: Permanent.
[12/31/96; Recompiled 12/31/01]

19.20.2.5 EFFECTIVE DATE: December 31, 1996 unless a different date is cited at the end of a section or paragraph.
[12/31/96; Recompiled 12/31/01]
[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

19.20.2.6 OBJECTIVE: The objective of this Part is to require appropriate forest resource management in order to assist in the prevention and suppression of forest fires, the control of forest pests and to maintain and enhance the economic benefits of forests and forest resources to New Mexico.
[10/26/70, 11/14/79, 12/19/89, 12/31/96; Recompiled 12/31/01]

19.20.2.7 DEFINITIONS:

A. "Cessation of harvest activities" means absence of any harvesting within a cutting unit for six consecutive days.

B. "Commercial forest species" means:

<u>Scientific name</u>	<u>Common name</u>
Abies concolor	White fir
Abies lasiocarpa	Corkbark fir/alpine fir
Picea engelmanni	Engelmann spruce
Picea pungens	Colorado blue spruce
Pinus aristata	Bristlecone pine
Pinus ponderosa	Ponderosa pine
Pinus flexilis	Limber pine
Pinus strobiformis	Southwestern white pine
Populus tremuloides	Quaking aspen
Pseudotsuga menziesii	Douglas fir

C. "Commercial operator" means any person harvesting trees of a commercial forest species in any area that is a cutting unit pursuant to this Part.

D. "Cutting unit" means an area of 25 acres or more but not more than 300 acres based on the topography of the area to be harvested, the number of persons to be engaged in the harvest, transportation, climate and other relevant factors. Any area larger than 300 acres should be divided into two or more cutting units, each totaling less than 300 acres.

E. "Damaged trees" means trees that are substandard because of size and which are over three feet in height, knocked down or damaged to the extent that mortality or serious deterioration will occur, and such trees partially pushed over so as to result in permanent lean and visible damage to the root system, all as a result of the permittee's operation.

F. "Deficient condition" means any treatment of slash, utilization of tree stems, erosion prevention treatment, revegetation or regeneration action, or any other action not in conformance with this Part.

G. "Division" means the forestry division of the New Mexico energy, minerals and natural resources department.

H. "Excessive slope" means a slope of greater than 40 percent over a continuous ground distance of 80 yards or more.

I. "Harvest or harvesting" means any and all activities related to removing a commercial forest species from its natural state, including, but not limited to: construction of haul roads and skid trails; cutting and severing or pushing over of standing trees; skidding or removal of trees to landings; transportation from cutting site or landings; or supervising or directing such activities.

J. "Landowner" means any person or entity, or their agents, owning or having legal control of the surface rights to land.

K. "Harvest activities" means any harvesting by one or more persons within a cutting unit for a period of two or more days in any calendar week (Sunday through Saturday).

L. "Long butting" means the cutting of a portion of the main stem that does not meet the utilization standards provided in Section 11.

M. "Main haul road" means any road which by reason of ease of access, volume of traffic or other relevant condition requires the level of fire prevention treatments established in Paragraph 9.3 [now Subsection C of 19.20.2.9 NMAC] of this Part.

N. "Multiple cutting unit permit" means a harvest permit for an area with two or more designated cutting units.

O. "Non-forest type area" means an area of at least one acre with less than 10 percent tree crown cover.

P. "Permittee" means any individual or company issued a commercial harvest permit by the division.

Q. "Proof of ownership" means a deed, affidavit or other document with a sufficient legal description of real property evidencing a right to possess land upon which a commercial forest species is found.

R. "Slash" means all branches, boughs or pieces of the main stem of a tree severed or damaged as a result of the current harvesting permit.

S. "Utilization" means the removal of whole trees, tree stems or portions of trees from the cutting unit.

T. "Water bar" means a drainage structure such as a ditch, mounded earth or staked log, installed on a road or skid trail at an approximate 30 degree downslope angle which diverts surface water runoff into adjacent undisturbed areas.

U. "Waiver" means a specific exemption from a regulation granted in writing by the division. Requests for a waiver must be submitted in writing and signed by the applicant and the landowner. [10/26/70, 10/15/71, 11/14/79, 12/19/89, 12/31/96; Recompiled 12/31/01]

19.20.2.8 HARVEST PERMITS:

A. Requirement: The harvest of commercial forest species in an area of 25 acres or more, or combination of areas totaling 25 acres or more in any calendar year, shall be conducted in conformance with and after issuance of a harvest permit approved pursuant to this Part.

B. Application for Harvest Permit:

(1) An application for a harvest permit shall be filed by the applicant with the division for approval 60 days prior to the intended commencement of harvesting. The application should provide the following information:

(a) the name(s) of legal owner(s) and a legal description of the land on which harvesting will occur;

(b) the name and mailing address of the purchaser of the timber to be harvested;

(c) the names and mailing addresses of individuals intended to directly manage harvest activities;

(d) the cutting unit or units to be established and all main haul roads established or proposed to be established within the area to be harvested shown on a U.S.G.S. topographic map of no smaller scale than 1:62500 (e.g., 15 minute quadrangle);

(e) the time schedule for harvesting (i.e., beginning and ending dates);

(f) a forest regeneration plan as described in Paragraph 8.7 [now Subsection G of 19.20.2.8

NMAC];

(g) plan for method of harvest and treatment of skid trails and slash on excessive slopes;

(h) the signature of the applicant and landowners and the date of application.

(2) All individuals who sign the application for a permit are responsible for compliance with all provisions of this Part.

C. Denial: No person shall be granted a new harvesting permit where there exists deficient conditions on a prior permit which remain uncorrected after 10 days notice from the division. Additionally, a permit will not be approved if inadequate information is provided or the application does not provide sufficient evidence of good forest conservation practice.

D. Notifications: A permittee or his designated representative shall inform the division prior to or, in no case later than 48 hours following the event, either by telephone, in person or in writing of the following:

(1) commencement of harvesting in any cutting unit;

(2) completion of harvesting in any cutting unit;

(3) completion of slash and erosion treatments in any cutting unit;

(4) completion of reseeded activities;

(5) completion of erosion treatments on main haul roads.

E. Multiple Cutting Units: Unless specifically authorized by the division, no commercial operator harvesting under a multiple unit permit shall commence harvest activities in a third unit unless all slash, water barring and utilization treatments have been completed on either of the previous two active units. Similarly, no commercial operator shall be allowed to fell timber in more than two cutting units at one time.

F. Alternate Practices or Modification:

(1) An applicant may propose alternate practices in lieu of the requirements set forth in this Part. The division may approve the use of alternate practices in writing prior to implementation if they exemplify good forest conservation practices and offer equivalent or better protection regarding fire, pest and erosion control.

(2) When unforeseen circumstances beyond the control of the permittee prevent completion of the activities required by this Part within the time limits provided, the division may, upon written request, grant in writing additional time for completion not to exceed 180 days.

G. Forest Regeneration Plan:

(1) The regeneration plan must describe a method of selecting trees to be harvested or of replanting, reasonably calculated to insure adequate regeneration of the forest. A plan will not be considered adequate unless the division concludes that, at a minimum, there will exist (absent extreme drought, fire or similar catastrophe) at least 300 viable, healthy trees of commercial forest species per acre within five years after planned cessation of harvesting of the last cutting unit under any permit.

(2) The regeneration plan shall contain the following information:

(a) For natural regeneration (the regeneration of trees from natural seeding or vegetative reproduction):

(i) the harvesting system to be used (i.e., seed tree, shelterwood, etc.);

(ii) if that system is selection or seed tree, the size and number of seed bearing trees per acre to be left;

(iii) if the system is clear cutting, the size of area or areas to be harvested by length and width and the height of the adjacent residual stand;

(b) For artificial regeneration (the planting of trees):

(i) the time of year planting will occur;

(ii) the tree species to be planted;

(iii) the seed source for seedlings;

(iv) the number of seedlings to be planted per acre;

(v) the method of seedling protection;

(vi) other site preparation, if any.

(3) Conversion: Notwithstanding the above requirements, if the cutting unit will be converted into a non-forest type area, the regeneration plan shall instead be the plan for conversion detailing the manner in which

slash will be treated so as to minimize the risk of forest fire and insect epidemic and the plans for erosion control, soil stabilization and revegetation.

[12/28/70, 11/14/79, 12/19/89, 12/31/96; Recompiled 12/31/01]

19.20.2.9 TREATMENT OF SLASH:

A. General: Within the time limits of Paragraph 9.2 [now Subsection B of 19.20.2.9 NMAC], all slash and damaged trees in any cutting unit shall be treated so that none stands higher than three feet above ground level.

B. Time Limit: Slash shall be reduced as described in Paragraph 9.1 [now Subsection A of 19.20.2.9 NMAC] not later than the shortest of the following limits:

(1) Thirty calendar days from the movement of commercial operators out of the subject cutting unit into another cutting unit under a multiple unit permit; or

(2) Thirty calendar days following the cessation of major harvesting activities within the cutting unit. In no event shall the time exceed 365 calendar days from the start of harvesting activities within the cutting unit.

C. Main Haul Roads: For the purpose of creating a fuel break and unless specifically waived in writing by the division, all slash greater than 24 inches in length and/or larger than one inch in diameter at the large end and within 50 feet of either side of the center line of a designated main haul road shall be eliminated by chipping, burning, burying, removal or equivalent means within 365 calendar days of cessation of harvest activities within the cutting unit in which the road lies.

[10/26/70, 10/15/71, 11/14/79, 12/19/89, 12/31/96; Recompiled 12/31/01]

19.20.2.10 REDUCTION OF EROSION:

A. Water Bars:

(1) Time Limit: All water bars required by this Section shall be installed within 30 days of the cessation of harvest activities within the cutting unit except that this limit shall not be applied to roads providing access to other cutting units under a multiple unit permit until harvesting in all of those accessed units is complete.

(2) Placement: Water bars shall be placed on all haul roads and skid trails and at such places or intervals necessary to prevent erosion considering grade, sidehill drainage, soil texture and character, vegetation and other pertinent factors, but at a minimum as described below:

Percent grade	Minimum interval
0.0% -- 4.9%	150 feet
5.0% -- 9.9%	130 feet
10.0% -- 14.9%	75 feet
15.0% -- 24.9%	50 feet
25.0% -- 40%	25 feet

The Division may require additional water bars if it appears erosion will not be controlled by the minimum intervals.

B. Reseeding:

(1) Time Limit: After construction of water bars pursuant to Paragraph 10.1 [now Subsection A of 19.20.2.10 NMAC], and at such time as best calculated to produce maximum germination, but in no event longer than 180 calendar days following the cessation of harvesting activities within any cutting unit, all haul roads, skid trails and other areas of exposed mineral soil shall be reseeded unless waived by the division.

(2) Seed Mix: Any seed mix used in reseeded must have the prior approval of the division.

[10/26/70, 10/15/71, 11/14/79, 12/19/89, 12/31/96; Recompiled 12/31/01]

19.20.2.11 TREE UTILIZATION:

A. All commercial forest species shall be utilized to a minimum six inch top diameter (inside bark) except that harvest for other than lumber production shall utilize trees to a minimum four inch top diameter (outside bark).

B. The main stem of the tree shall be utilized as stated in Paragraph 11.1 [now Subsection A of 19.20.2.11 NMAC], when the net scale of the severed log or section of the main stem is more than 50 percent of its gross scale, using the "National Forest Log Scaling Handbook" - FSH 2409.11.

C. Long butting: Long butting is prohibited except when resulting from removal of defects up to the limit of Paragraph 11.2 [now Subsection B of 19.20.2.11 NMAC].

D. Stumpheight: Stump height shall not exceed 12 inch height on the uphill side except where immovable objects (i.e., rocks, other trees) prevent operation of felling equipment.

[11/14/79, 12/19/89, 12/31/96; Recompiled 12/31/01]

19.20.2.12 REVOCATION OF PERMIT:

- A. Notice of Deficient Condition: Written notice of deficient condition may be provided by the division. The notice will specify the deficiency and allow a set time to remedy the deficiency.
 - B. If a deficient condition exists past the time set for correction, the division may issue a revocation of permit. The permit is revoked upon the earliest of the following: receipt of the revocation by the applicant or landowner or on the third day after mailing by registered mail.
 - C. Upon correction of any noted deficiency, the division may reinstate the permit by written notification.
 - D. The decision of the division to follow this procedure in no way limits its ability or authority to issue citations or otherwise enforce the possible criminal penalties for violating this Part.
- [12/19/89, 12/31/96; Recompiled 12/31/01]

19.20.2.13 FIRE RESTRICTIONS: Whenever the state forester declares restrictions on use of lands or use of fire within a permitted area based on 19 NMAC 20.2 [now 19.20.2 NMAC], such restrictions shall apply to harvesting activities. If the restrictions require that harvest activities stop, then such stoppage for the term of the restriction is not a cessation of harvesting activities.

[12/19/89, 12/31/96; Recompiled 12/31/01]

19.20.2.14 PENALTIES: Violation of this Part is a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the county jail not to exceed one year or both for each and every violation, Section 68-2-17 NMSA 1978.

[10/26/70, 11/14/79, 12/19/89; Recompiled 12/31/01]

HISTORY OF 19.20.2 NMAC:

Pre-NMAC History: The material in this Part was derived from that previously filed with the State Records Center and Archives:

70-1, Rules and Regulations Relating to the Prevention and Suppression of Forest Fires, 10/26/70.

Regulation No. 1, Standards of Slash Treatment, Tree Utilization, Revegetation of Disturbed Areas and Reduction of Soil Erosion in Commercial Harvesting of Trees, 11/16/79.

Regulation No. 3, Forest Regeneration, 11/16/79.

NMFRCD 89-1, Regulations Governing Forestry Management, 2/19/89.

History of Repealed Material: [RESERVED]