

TITLE 3: TAXATION
CHAPTER 19: SEVERANCE TAX
PART 4: VALUE OF MINERALS

3.19.4.1 ISSUING AGENCY: Taxation and Revenue Department, Joseph M. Montoya Building, 1100 South St. Francis Drive, P.O. Box 630, Santa Fe NM 87504-0630
[7/31/96; 3.19.4.1 NMAC - Rn, 3 NMAC 19.4.1, 1/15/01]

3.19.4.2 SCOPE: This part applies to all severers, processors and owners of natural resources.
[7/31/96, 10/31/97; 3.19.4.2 NMAC - Rn, 3 NMAC 19.4.2, 1/15/01]

3.19.4.3 STATUTORY AUTHORITY: Section 9-11-6.2 NMSA 1978.
[7/31/96; 3.19.4.3 NMAC - Rn, 3 NMAC 19.4.3, 1/15/01]

3.19.4.4 DURATION: Permanent.
[7/31/96; 3.19.4.4 NMAC - Rn, 3 NMAC 19.4.4, 1/15/01]

3.19.4.5 EFFECTIVE DATE: 7/31/96, unless a later date is cited at the end of a section, in which case the later date is the effective date.
[7/31/96; 3.19.4.5 NMAC - Rn & A, 3 NMAC 19.4.5, 1/15/01]

3.19.4.6 OBJECTIVE: The objective of this part is to interpret, exemplify, implement and enforce the provisions of the Resources Excise Tax Act and the Severance Tax Act.
[7/31/96, 10/31/97; 3.19.4.6 NMAC - Rn, 3 NMAC 19.4.6, 1/15/01]

3.19.4.7 DEFINITIONS: [Reserved.]
[7/31/96; 3.19.4.7 NMAC - Rn, 3 NMAC 19.4.7, 1/15/01]

3.19.4.8 GROSS VALUE OF SAND AND GRAVEL:
A. In the absence of substantial evidence of a different posted field or market price for sand and gravel, it is presumed that the gross value of sand and gravel for purposes of the Severance Tax Act is \$1.75 per ton.
B. In the absence of evidence of lower deductible expenses the maximum 50% deduction will be allowed.
[7/7/78, 7/31/96; 3.19.4.8 NMAC - Rn, 3 NMAC 19.4.8, 1/15/01]

3.19.4.9 VALUE OF COPPER, LEAD, ZINC, GOLD AND SILVER: The sales values for resources for which the gross value is determined by the provisions of Subsections E, F and G of Section 7-26-4 NMSA 1978 will be the following monthly average index prices as published in Metals Week:
A. Copper will be the Comex HG first position price.
B. Lead and zinc will be the London Metal Exchange cash price.
C. Gold will be London Metal Exchange Final.
D. Silver will be the London spot, U.S. equivalent.
[8/14/84, 7/31/96; 3.19.4.9 NMAC - Rn, 3 NMAC 19.4.9, 1/15/01]

3.19.4.10 WHICH SUBSTANCES ARE "NATURAL RESOURCES":
A. **GUANO IS NOT A NATURAL RESOURCE:** Guano is a substance composed chiefly of the dung of sea birds or bats, accumulated along certain costal areas or in caves, and used as a fertilizer. The definitions of "natural resource" in Sections 7-25-3 and 7-26-2 NMSA 1978 do not include guano and therefore guano is not a natural resource from the purposes of the Resources Excise Tax Act and the Severance Tax Act.
B. **CALICHE IS A NATURAL RESOURCE:** Caliche is a natural resource for purposes of the Resources Excise Tax Act and the Severance Tax Act.
C. **TREES:**
(1) Trees felled for timber are a natural resource. The word "timber" connotes trees that are cut down for use as poles, masts, lumber or wood products or derivatives. Trees gathered, transplanted or felled for other purposes are not a natural resource for purposes of the Resources Excise Tax Act and the Severance Tax Act.

(2) Examples: Trees cut for use as Christmas trees or firewood and trees transplanted for use as landscaping are not timber. The taxes imposed by the Resources Excise Tax Act and the Severance Tax Act do not apply to these uses of trees.

D. **BORROW MATERIALS ARE NOT NATURAL RESOURCES:** Borrow materials, such as soil type materials, used for fill or embankment in a construction operation are not a “natural resource” as that term is used in the Resources Excise Tax Act or the Severance Tax Act.
[10/31/97; 3.19.4.10 NMAC - Rn & A, 3 NMAC 19.4.10, 1/15/01]

3.19.4.11 ORE SEVERED BY PERSON NOT THE OWNER: The owner of metal ores which are severed by another person, and not processed in the state, is liable for the resources tax at the appropriate rate specified in Section 7-25-4 NMSA 1978 times the taxable value of the severed ores, less the amount of the service charge paid to the person severing the ores. The person severing the metal ores is subject to the service tax on the amount of the service charge.
[10/31/97; 3.19.4.11 NMAC - Rn & A, 3 NMAC 19.4.11, 1/15/01]

3.19.4.12 U₃O₈ SHIPPED FOR CONVERSION TO UF₆: When U₃O₈ is shipped from New Mexico to another state for conversion into UF₆ for delivery to the New Mexico taxpayer's customers, the New Mexico taxpayer may use for severance tax purposes the value of the U₃O₈ as determined at the time of the delivery of UF₆ to the customer as the value to be reported for the taxable event.
[10/31/97; 3.19.4.12 NMAC - Rn, 3 NMAC 19.4.12, 1/15/01]

3.19.4.13 PROCESSING OF TIMBER:

A. For purposes of the Resources Excise Tax Act, processing of timber ends when the timber has been sawn into rough green lumber. The processing tax due is measured by the value of the rough green lumber.

B. If rough green lumber is brought into this state, the processing tax is not due with respect to such lumber. If logs are sawed in New Mexico, the processing tax is due regardless of whether the logs were severed in New Mexico or elsewhere.
[10/31/97; 3.19.4.13 NMAC - Rn, 3 NMAC 19.4.13, 1/15/01]

HISTORY OF 3.19.4 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center: R.D. 78-1, Severance Tax Regulation 4:1, filed 7/7/78.

R.D. - Sev. Regulation 4:2, Regulation Pertaining to Valuation of Natural Resources Severance Tax Act, Section 7-26-4 NMSA 1978, Laws 1984, Chapter 84, Section 1, filed 8/14/84.

History of Repealed Material: [RESERVED]

NMAC History:

3 NMAC 19.4, Severance Tax - Value of Minerals, filed 7/18/96.

3.19.4 NMAC, Severance Tax - Value of Minerals, filed 1/4/01.