

This is an emergency amendment to 16.8.1 NMAC amending Section 7, effective 12/02/2021.

16.8.1.7 DEFINITIONS: Unless otherwise defined below, terms used in Title 16, Chapter 8, have the same meanings as set forth in the Cannabis Regulation Act and the Lynn and Erin Compassionate Use Act.

A. Definitions beginning with “A”:

(1) “Act” means the Cannabis Regulation Act, Sections 26-2C-1 to -42, NMSA 1978.

~~[(4)]~~ (2) “Advisory committee” means the cannabis regulatory advisory committee.

(3) “Adulterated” has the meaning stated in the New Mexico Food Act, Section 25-2-10, NMSA 1978.

(4) “Allergen” (“Major Food Allergen”) means:

(a) milk, egg, fish (such as bass, flounder, cod, and including crustacean shellfish such as crab, lobster, or shrimp), tree nuts (such as almonds, pecans, or walnuts), wheat, peanuts, and soybeans; or

(b) a food ingredient that contains protein derived from a food, as specified in paragraph 1 of this Subsection.

(c) “Major food allergen” does not include:

(i) any highly refined oil derived from a food specified in paragraph 1 of this Subsection and any ingredient derived from such highly refined oil; or

(ii) any ingredient that is exempt under the petition or notification process specified in the Food Allergen Labeling and Consumer Protection Act of 2004 (Public Law 108-282).

~~[(2)]~~ (5) “Applicant” means any person who is seeking to become licensed pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules.

(6) “Approved” means acceptable to the division based on the division’s determination of conformity with principles, practices, industry standards, and generally recognized standards that protect public health and compliance with the requirements of this part and the act.

B. Definitions beginning with “B”: “Batch” means, with regard to cannabis, an identified quantity of cannabis no greater than 15 pounds that is of the same strain of cannabis, that is harvested during the same specified time period from the same specified cultivation area, and with respect to which the same agricultural practices were utilized, including the use of any pesticides; and with regard to concentrated and cannabis product, means an identified quantity that is uniform, that is intended to meet specifications for identity, strength, and composition, and that is manufactured, packaged, and labeled during a specified time period according to a single manufacturing, packaging, and labeling protocol.

C. Definitions beginning with “C”:

(1) “Cannabis finished product” means a cannabis product that is packaged and labeled for retail sale.

~~[(4)]~~ (2) “Cannabis Regulation Act” means the Cannabis Regulation Act, as enacted in Chapter 4, Sections 1 through 42 of New Mexico Laws of 2021, and as may be amended thereafter.

~~[(2)]~~ (3) “Cannabis Waste” means all parts of the plant genus Cannabis which may or may not contain a delta-9-tetrahydrocannabinol concentration of more than three-tenths percent on a dry weight basis, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin; and the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake; or the sterilized seed of the plant that is incapable of germination which has been designated as no longer usable cannabis.

(4) “Certificate of analysis” means an official certificate issued by a cannabis testing laboratory signed by an authorized official of the cannabis testing laboratory that guarantees the results of the laboratory’s testing of a sample.

~~[(3)]~~ (5) “Concentrated cannabis product (“concentrate”)” means a cannabis product that is manufactured by a division approved mechanical or chemical process that separates any cannabinoid from the

cannabis plant, and that contains or that is intended to contain at the time of sale or distribution, no less than thirty-percent THC by weight.

(6) “Conditional employee” means a potential edible/topical cannabis manufacturing facility employee to whom a job offer is made, conditional on responses to subsequent medical questions or examinations designed to identify potential employees who may be suffering from a disease that may be transmitted through edible or topical cannabis products or edible or topical cannabis finished products and done in compliance with Title 1 of the Americans with Disabilities Act of 1990.

D. Definitions beginning with “D”:

(1) “Division” means the cannabis control division.

(2) “Diversion” means the unlawful transfer of a cannabis plant, plant material, or cannabis product.

(3) “Dried cannabis” means the dried leaves, flowers, and trim of the female cannabis plant, but does not include the seeds, stalks, or roots of the cannabis plant.

(4) “Drinking water” means water that meets criteria as specified in 20.7.10 NMAC. Drinking water is traditionally known as “potable water” and includes the term “water” except where the term used connotes that the water is not potable, such as “boiler water,” “mop water,” “rainwater,” “wastewater,” and “non-drinking” water.

E. Definitions beginning with “E”: ~~[[RESERVED]]~~

(1) “Edible cannabis finished product” means a cannabis product that is packaged and labeled for retail sale and is intended for human ingestion.

(2) “Employee” means the licensee, person in charge, food employee, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in an edible/topical cannabis manufacturing facility.

F. Definitions beginning with “F”: ~~[[RESERVED]]~~

(1) “Food” (“ingredient”) means an edible substance used or intended for use in whole or in part in the formulation of an edible cannabis finished product, and is not cannabis or cannabis product.

(2) “Food-contact surface” means:
(a) A surface of equipment or a utensil with which food or edible cannabis products normally comes into contact; or
(b) A surface of equipment or a utensil from which food or edible cannabis products may drain, drip, or splash:
(i) Into a food or edible cannabis products, or
(ii) Onto a surface normally in contact with food or edible cannabis products.

(3) “Food employee” means an individual working with:
(a) unpackaged edible or topical cannabis products;
(b) unpackaged ingredients; or
(c) equipment, utensils, or surfaces that contact unpackaged cannabis products and ingredients used to manufacture edible or topical cannabis products, or edible or topical cannabis finished products.

G. Definitions beginning with “G”: ~~[[RESERVED]]~~ “Good manufacturing practices” (GMPs) means the minimum sanitary and processing requirements related to the production methods, equipment, facilities, and other controls that a cannabis processing facility must meet to assure that cannabis products and cannabis finished products are safe and wholesome.

H. Definitions beginning with “H”: ~~[[RESERVED]]~~

I. Definitions beginning with “I”: ~~[[RESERVED]]~~

(1) “Imminent health hazard” means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on:

(a) the number of potential injuries; and
(b) the nature, severity, and duration of the anticipated injury.

(2) “Ingredient” means:

(a) food;

- (b) additives;
- (c) non-food ingredients used in topical cannabis products; and
- (d) “ingredient” does not include cannabis or cannabis product.
- J. Definitions beginning with “J”: [RESERVED]**
- K. Definitions beginning with “K”: [RESERVED]**
- L. Definitions beginning with “L”:**
- (1) “Label” (“Labeling”) means any display of written, printed, or graphic matter printed on or affixed to any container and includes product inserts and other promotional materials including digital communications.
- (2) “Law” means applicable local, state, and federal statutes, regulations, and ordinances.
- [4] (3) “Licensee” means any person who holds a license issued by the Division pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules.
- [2] (4) “Limited-access area” means an indoor or outdoor area on the premises of a licensed cannabis establishment where cannabis or cannabis products are cultivated, stored or held, weighed, packaged, manufactured, disposed or wasted, all point-of-sale (POS) areas, and any room or area storing a digital video surveillance system storage device.
- [3] (5) “Lot” means an identified portion of a batch, that is uniform and that is intended to meet specifications for identity, strength, and composition; or, in the case of a cannabis product or concentrate, an identified quantity produced in a specified period of time in a manner that is uniform and that is intended to meet specifications for identity, strength, and composition.
- [4] (6) “Lynn and Erin Compassionate Use Act” means the Lynn and Erin Compassionate Use Act, Section 26-2B-1 et seq., NMSA 1978.
- M. Definitions beginning with “M”:**
- (1) “Minor” means an individual who is less than 18 years of age.
- (2) “Misbranded” has the meaning stated in the New Mexico Food Act, Section 25-2-11 NMSA 1978.
- N. Definitions beginning with “N”: [RESERVED] “NMED” means the New Mexico environment department.**
- O. Definitions beginning with “O”: [RESERVED] “Operational plan” means a written plan outlining the product formulation, production steps, safety requirements, distribution, labeling, and recall procedures that will be implemented by a cannabis manufacturer when processing edible or topical cannabis products or edible of topical cannabis finished products.**
- P. Definitions beginning with “P”:**
- [1] “Pesticide” means a pesticide as defined by the New Mexico Pesticide Control Act, Section 76-4-1 et seq., NMSA 1978.
- [2] “Plant” means any cannabis plant, cutting, or clone that has roots or that is cultivated with the intention of growing roots.
- [3] “Policy” means a written statement of principles that guides and determines present and future decisions and actions of the licensed person.
- [4] “POS” means point of sale system.
- [5] “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or any other legal or commercial entity.
- [6] “Produce” means to engage in any activity related to the planting or cultivation of cannabis.]
- (1) “Packaged” (“Packaging”) means the act of placing edible or topical product or edible or topical finished product into a container.
- (2) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or any other legal or commercial entity.
- (3) “Person in charge” means the individual present at a cannabis manufacturing facility who is responsible for the operation at the time of inspection.
- (4) “Personal care items” means items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a person’s health, hygiene, or appearance, and includes

items such as medicines; first aid supplies; and other items such as cosmetics, and toiletries such as toothpaste and mouthwash.

(5) "Pesticide" means a pesticide as defined by the New Mexico Pesticide Control Act, Section 76-4-1 et seq., NMSA 1978.

(6) "pH" means the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution.

(7) "Plant" means any cannabis plant, cutting, or clone that has roots or that is cultivated with the intention of growing roots.

(8) "Poisonous or toxic materials" means substances that are not intended for ingestion and are included in four categories:

(a) Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;

(b) Pesticides, except sanitizers, which include substances such as insecticides and rodenticides;

(c) Substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and personal care items that may be deleterious to health; and

(d) Substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints.

(9) "Policy" means a written statement of principles that guides and determines present and future decisions and actions of the licensed person.

(10) "POS" means point of sale system.

(11) "Process authority" means an approved expert in the processes for controlling pathogenic microorganisms in food and/or cannabis products, and as such, is qualified by education, training and experience to evaluate all of the aspects of pathogen control measures and determine if such control measures, when properly implemented, will control pathogens effectively.

(12) "Produce" means to engage in any activity related to the planting or cultivation of cannabis.

(13) "Public water system" has the meaning stated in 20.7.10 NMAC.

Q. Definitions beginning with "Q": [RESERVED]

R. Definitions beginning with "R"

(1) "Recall" means ~~to request the return of a product after the discovery of a safety issue or product defect~~ a return of cannabis products, including edible or topical cannabis products and edible or topical cannabis finished products that are either known or suspected to be adulterated, misbranded, defective, or otherwise unsafe for human consumption, to the cannabis manufacturer, or that are destroyed, wasted, and disposed of in accordance with division rules related to wastage.

(2) "Rework" means clean, unadulterated food or edible or topical cannabis product or edible or topical finished product that has been removed from processing for reasons other than insanitary conditions or that has been successfully reconditioned by reprocessing and that is suitable for use as food or edible or topical cannabis finished product.

~~(2)~~ (3) "RLD" means the regulation and licensing department.

S. Definitions beginning with "S":

(1) "Security alarm system" means any device or series of devices capable of alerting law enforcement, including, but not limited to, a signal system interconnected with a radio frequency method such as cellular, private radio signals, or other mechanical or electronic device used to detect or report an emergency or unauthorized intrusion.

(2) "Segregate" means to separate and withhold from use or sale batches, lots, cannabis, usable cannabis, or cannabis products in order to first determine its suitability for use through testing by an approved laboratory.

(3) "Sewage" means liquid waste containing organic matter in suspension or solution and may include liquids containing chemicals in solution.

(4) "Smooth" means:

(a) A food-contact surface having a surface free of pits and inclusions with a cleanability equal to or exceeding that of (100 grit) number 3 stainless steel;

(b) a nonfood-contact surface of equipment having a surface equal to that of commercial grade hot-rolled steel free of visible scale; and

(c) a floor, wall, or ceiling having an even or level surface with no roughness or projections that render it difficult to clean.

T. Definitions beginning with “T”:

(1) **“THC”** means tetrahydrocannabinol, a cannabinoid that is the primary psychoactive ingredient in cannabis.

(2) **“Testing”** means testing of cannabis and cannabis products using analytical analysis consistent with division rules.

(3) **“Time/temperature control for safety food”** means a food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.

(4) **“Topical cannabis finished product”** means a cannabis product that is packaged and labeled for retail sale and is intended to be applied externally to the skin and not intended to be ingested or inhaled.

(5) **“Total THC”** means the sum of the percentage by weight of THCA multiplied by 0.877 plus the percentage by weight of THC i.e., $\text{Total THC} = (\% \text{THCA} \times 0.877) + \% \text{THC}$.

~~(3)~~ (6) **“Track and trace system”** means the electronic system designated by the division to track and trace the production, transportation, sale, and wastage of cannabis and cannabis products.

U. Definitions beginning with “U”: [RESERVED]

V. Definitions beginning with “V”: **“Vault”** means a limited access storage room that is within a licensed cannabis establishment and is outfitted with adequate security features for the purposes of storing cannabis, cannabis products, or cash.

W. Definitions beginning with “W”:

(1) **“Waste” or “wastage”** means the process of rendering cannabis or cannabis products unusable and unrecognizable, including the destruction of cannabis or cannabis products.

(2) **“Water activity” (A_w)** means the measure of the free moisture in an edible cannabis finished product and is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature.

X. Definitions beginning with “X”: [RESERVED]

Y. Definitions beginning with “Y”: [RESERVED]

Z. Definitions beginning with “Z”: [RESERVED]

[16.8.1.7 NMAC - N 08/22/2021, A/E 12/02/2021]