

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 20 HEMP CULTIVATION RULE
PART 3 HEMP MANUFACTURING RULE

21.20.3.1 ISSUING AGENCY: New Mexico State University, New Mexico Department of Agriculture, MSC 3189, Box 30005, Las Cruces, New Mexico 88003, Telephone No. (575) 646-3007.
[21.20.3.1 NMAC; N, 10/15/2019]

21.20.3.2 SCOPE: All persons engaged in:
A. Testing of raw hemp for regulatory purposes as identified by New Mexico Department of Agriculture or;
B. Plant breeding for the purpose of developing improved or new hemp varieties in which breeding activities involve the possession of viable plants that are in excess of three-tenths percent and less than five percent THC.
[21.20.3.2 NMAC; N, 10/15/2019]

21.20.3.3 STATUTORY AUTHORITY: Granted to the Board of Regents of New Mexico State University under the Hemp Manufacturing Act, Chapter 76, Article 24, Section 1, NMSA 1978 Compilation.
[21.20.3.3 NMAC; N, 10/15/2019]

21.20.3.4 DURATION: Permanent.
[21.20.3.4 NMAC; N, 10/15/2019]

21.20.3.5 EFFECTIVE DATE: October 15, 2019, unless a later date is cited at the end of a section.
[21.20.3.5 NMAC; N, 10/15/2019]

21.20.3.6 OBJECTIVE: Establish licensing and operational standards for persons testing raw hemp for regulatory purposes, as identified by the department, or persons engaged in the breeding of new or breeding for improving existing hemp varieties in which practices may involve the possession of viable plants and plant material in excess of three-tenths percent and less than five percent THC.
[21.20.3.6 NMAC; N, 10/15/2019]

21.20.3.7 DEFINITIONS:
A. **“Applicant”** means individual, business, agency, institution, or other entity that is in the process of or has submitted an application to the department for a Laboratory Hemp Testing License, or a Special Hemp Breeding License.
B. **“Cannabis”** means a plant of the genus cannabis.
C. **“Department”** means the New Mexico Department of Agriculture.
D. **“Hemp”** means the plant Cannabis sativa L. and any part of that plant, including seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers, whether growing or not, with a THC concentration of not more than three-tenths percent on a dry weight basis.
E. **“Hemp Harvest Certificate”** means a certificate, license, permit or other document pursuant to rules adopted under the Hemp Manufacturing Act for use during transportation of hemp or hemp-derived material, whether in the possession of a person or electronically verified by a law enforcement agency.
F. **“Hemp Testing”** means testing of cannabis for regulatory purposes identified by New Mexico Department of Agriculture for total THC concentrations.
G. **“License”** means document issued to an applicant by the department authorizing a person to engage in activities identified by the department.
H. **“Director”** means New Mexico Director/Secretary of Agriculture or designee.
I. **“SOP”** means written standard operating procedures detailing instructions related to specific tasks.
J. **“THC”** means delta-9-tetrahydrocannabinol as measured using a post-decarboxylation method and based on percentage dry weight.
K. **“Varieties”** means cannabis cultivar or strain with known or unknown THC levels.
[21.20.3.7 NMAC; N, 10/15/2019]

21.20.3.8 LICENSE YEAR: The license year for a Laboratory Hemp Testing License or for the Special Hemp Breeding License shall be a 12-month period from February 1 through January 31. Licenses, certificates or permits issued at any time during the license year shall expire on January 31 following issuance.
[21.20.3.8 NMAC; N, 10/15/2019]

21.20.3.9 FEES:

- A. The annual fee for a Laboratory Hemp Testing License shall not exceed five-hundred dollars (\$500).
 - B. The annual fee for a Special Hemp Breeding License shall not exceed five-hundred dollars (\$500).
 - C. Once an appropriate license has been issued by the department, fees collected for licenses or certificates are nonrefundable.
 - D. Double fees required because of late renewal of licenses in Subsections A and B 21.20.3.9 NMAC shall be twice the amount stated for the appropriate license.
 - E. Fees may be waived by the director, when, in their discretion, special circumstance warrant such a waiver.
- [21.20.3.9 NMAC; N, 10/15/2019]

21.20.3.10 EFFECTIVE DATE OF APPLICATION AND PAYMENT OF DOUBLE FEES:

- A. The effective date of application for license renewals by mail shall be the date postmarked on the applicant's properly completed application package. Renewal packages postmarked January 31 or before may be considered for renewal at single fee rates as described in Subsections A and B of 21.20.3.9 NMAC. Renewal packages postmarked February 1 or later are considered late; these packages will be returned to the applicant along with appropriate paperwork for renewal at double fee rates as described in Subsection D of 21.20.3.9 NMAC.
 - B. The effective date of application for license and permit renewals done in person shall be the actual calendar date when the properly completed application or renewal package is presented to the department. These application or renewal packages may be received by the department only during regular business hours.
 - C. Incomplete or improperly completed application or renewal packages will be so identified by the department and returned to the applicant for completion or correction. The effective date of application shall be the date postmarked on the original envelope for packages received by mail; the effective date of application for packages submitted in person shall be the actual calendar date the applicant first presents the package to the department office. This presentation shall occur during regular business hours only.
- [21.20.3.10 NMAC; N, 10/15/2019]

21.20.3.11 LABORATORY HEMP TESTING LICENSE REQUIREMENTS:

- A. Persons engaged in the testing of raw hemp for the purpose of supporting regulatory requirements established by the department shall be licensed by the department.
- B. Prior to issuance of a Laboratory Hemp Testing License by the department, applicants shall demonstrate expertise directly related to quantification of specific compounds in cannabis under the following requirements:
 - (1) Analytical proficiency directly related to the quantification of THC by qualifying under one or more of the following:
 - (a) Have successfully completed a proficiency test administered by a department approved entity using department approved methodologies within the past six months.
 - (b) Currently approved for the quantification of THC in cannabis by another state agency or other entity that has been recognized by the department.
 - (c) Other qualifying requirements as allowed by the director or established in policy.
 - (2) Submission to the department for review and approval SOPs for procedures related to sample receiving, plant material storage, record retention, sample processing, extraction methodology, total THC quantification methodology, and disposal and destruction of plant material in excess of three-tenths percent THC post-decarboxylation.
 - (3) Submission to the department for review and approval SOPs related to reporting to, or providing the department access to THC test results related to hemp samples submitted by hemp growers in support of their hemp harvest certificate.
 - (4) Submission to the department for review and approval laboratory director credentials; laboratory location for fixed laboratory, license plate and vehicle description of mobile laboratory units.

- (5) Other pre-license approval requirements as developed and stated in policy.
- C. Persons issued a Laboratory Hemp Testing License shall comply with but not limited to the following:
- (1) Only utilize SOPs approved by the department relevant to the quantification of total THC in samples received to support of the issuance of a Hemp Harvest Certificate.
 - (2) Participate in proficiency testing, as required and directed by the department. Number of proficiency tests required by the department during a 12-month period shall not exceed two when results are identified as satisfactory by the department.
 - (3) Provide department staff access to hemp THC testing facilities for the purpose of determining compliance with state rules and policies, or to observe procedures during one or more proficiency testing events.
 - (4) Disclose to the department potential conflicts of interest related to hemp testing including but not limited to, laboratory ownership, laboratory board members, or staff who have direct economic interests in a specific hemp production.
 - (5) Accept financial responsibility for costs incurred as a result of department directed proficiency testing.
 - (6) Understand costs associated with the testing of hemp for regulatory purposes will not be the responsibility of the department.
 - (7) Other requirements as developed and stated in policy.

[21.20.3.11 NMAC; N, 10/15/2019]

21.20.3.12 SPECIAL HEMP BREEDING LICENSE REQUIREMENTS:

- A. Persons breeding for new or improved varieties of hemp and that may possess viable plants or plant material in excess of three-tenths percent and less than five percent THC shall be licensed by New Mexico Department of Agriculture.
- B. Application requirements by persons applying for a Special Hemp Breeding License shall comply with but not limited to the following:
- (1) If the applicant is a business, agency, institution, or other entity, the application shall identify the specific person the license shall be issued to and is responsible for activities covered under this rule.
 - (2) Submission to the department for review and approval all SOPs related to record retention for plants believed to be in excess of three-tenths percent and less than five percent THC, and disposal and destruction of plant material in excess of three-tenths percent THC.
 - (3) Submission to the department for review and approval plant breeder's credentials, and breeding objectives.
 - (4) Provide department staff access to locations licensed under the Special Hemp Breeding License for the purpose of determining compliance with state rules and policies.
 - (5) Other requirements as developed and stated in policy.
- C. Persons licensed by the department under the Special Hemp Breeding License shall comply with, but not limited to the following:
- (1) Viable plants or plant material in excess of three-tenths percent and less than five percent THC shall be required to be maintained indoors in a secure area approved by the department.
 - (2) Plants or plant material in excess of three-tenths percent and less than five percent THC shall not be available to the public or transferred to another person that does not possess a valid Special Hemp Breeding License.
 - (3) Understand that state law enforcement agencies are notified of locations licensed under the Special Hemp Breeding License.
 - (4) Plants or plant material in excess of three-tenths percent and less than five percent THC shall not be used for any other purpose other than plant breeding.
 - (5) Other requirements as developed and stated in policy.

[21.20.3.12 NMAC; N, 10/15/2019]

21.20.3.13 NON-COMPLIANCE: If any licensee is found to have violated any of the provisions of this rule, policies, or orders of the department, the license may be revoked or suspended for a period of time identified by the director.

[21.20.3.13 NMAC; N, 10/15/2019]

HISTORY OF 21.20.3 NMAC: [RESERVED]