

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 20 HEMP CULTIVATION RULE
PART 2 HEMP CULTIVATION RULE

21.20.2.1 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.
[21.20.2.1 NMAC - N, 12/11/2018]

21.20.2.2 SCOPE: All individuals, businesses, agencies, institutions, or other entities engaged in the production of hemp in New Mexico.
[21.20.2.2 NMAC - N, 12/11/2018]

21.20.2.3 STATUTORY AUTHORITY: Granted to the Board of Regents of New Mexico State University under the Industrial Hemp Research and Development Program Act, Chapter 76, Article 24, Section 2, NMSA 1978 Compilation.
[21.20.2.3 NMAC - N, 12/11/2018]

21.20.2.4 EFFECTIVE DATE: December 11, 2018, unless a later date is cited at the end of the section.
[21.20.2.4 NMAC - N, 12/11/2018]

21.20.2.5 DURATION: Permanent.
[21.20.2.5 NMAC - N, 12/11/2018]

21.20.2.6 OBJECTIVE: Establishes rules regulating the licensing of growers producing hemp in New Mexico and the establishment of testing processes to ensure uniformity to the definition of hemp.
[21.20.2.6 NMAC - N, 12/11/2018]

21.20.2.7 DEFINITIONS:

A. “Annual Production License” means license issued for the production of a single crop that is destroyed within 240 days of planting.

B. “Applicant” means individuals, businesses, agencies, institutions, or other entities that have submitted an application to the department.

C. “Application” means documents submitted to the department by an applicant as part of the process for obtaining a hemp production license for a single location.

D. “Business Day” means normal business hours and days as defined by New Mexico State University policy.

E. “Cannabis” means a plant of the genus cannabis.

F. “Continuous Production License” means license issued for the production of hemp as part of a plant nursery, greenhouse or similar operation in which viable hemp plant(s) are produced or present throughout the year in a location.

G. “Crop” means planting of one or more hemp varieties within a two week (2 week) contiguous period within a location. Cannabis varieties, not planted within a two week period within a location, shall be subject to a separate license and license fee.

H. “Department” means the New Mexico Department of Agriculture.

I. “Destroy(ed)” meaning method approved by the department to ensure non-viability of a cannabis plant. Methods may include shredding, disking, burning, or other methods as prescribed by the director.

J. “Director” means the director/secretary of New Mexico Department of Agriculture or designee.

K. “Hemp” means the plant Cannabis sativa L. and any part of the plant, whether growing or not, containing a delta-9-tetrahydrocannabinol concentration of no more than three-tenths percent (.3 %) on a dry weight basis.

L. “License” means document issued to an applicant by the department authorizing a licensee to produce hemp at a location.

M. “Licensee” means individuals, businesses, agencies, institutions, or other entities that possess a valid hemp production license.

N. “**Location**” means one contiguous growing area of any size, or multiple non-contiguous growing areas, totaling no more than 10 acres, within a 2.5 mile radius. Non-contiguous growing areas must be owned or leased by a single licensee.

O. “**THC**” means delta-9 tetrahydrocannabinol.

P. “**Variety**” means cannabis cultivar or strain with known or unknown THC levels.

[21.20.2.7 NMAC - N, 12/11/2018]

21.20.2.8 APPLICATION/LICENSE:

A. Annual Production License:

Applicants cultivating hemp for annual production shall apply for an annual hemp production license no less than 25 business days prior to planting of each crop at each location. The effective date of an application received by the department shall be the date postmarked on a properly completed application received by mail. The effective date of application for documents submitted in person shall be the actual calendar date the applicant presents a properly completed application. Incomplete or improperly completed applications will be identified as invalid by the department and returned to the applicant for completion or correction. A separate application and application fee are required prior to planting of each new crop at each location. An annual hemp production license is valid for 240 days after date of issuance, or until crop destruction, whichever occurs first, for specified cannabis varieties grown annually at the specified location identified in the application.

B. Continuous Production License:

Applicants cultivating hemp for continuous production and propagation purposes shall apply for a continuous production license no less than 25 business days prior to planting or prior to other propagative activities. Applicants producing hemp in continuous production shall apply for a renewal of their continuous production license prior to February 1 of each year as defined by department policy. A separate application and application fee are required for each licensed location. Incomplete or improperly completed renewal applications will be identified as invalid by the department and returned to the applicant for completion or correction. The effective date of a renewal application received by the department shall be the date postmarked on a properly completed application received by mail. The effective date of application for renewal application, submitted in person, shall be the actual calendar date the applicant presents a properly completed application. A continuous production license expires January 31 of each year.

[21.20.2.8 NMAC - N, 12/11/2018]

21.20.2.9 LICENSEE REQUIREMENTS: Licensee shall:

A. submit all required documents by due dates specified by the department;

B. not reassign or transfer to another business, location, individual, or other entity a license;

C. destroy cannabis varieties covered under this rule and found not to be in compliance with requirements set forth in this rule or department policy;

D. not sell, transport, process, or utilize a cannabis variety in any manner without a valid document issued by the department demonstrating compliance with requirements set forth in regulations or department policies;

E. remit payment to the department for fees associated with enforcement of this rule within 20 calendar days of receipt of notice; and

F. follow all state and federal requirements relevant to hemp production.

[21.20.2.9 NMAC - N, 12/11/2018]

21.20.2.10 FEES:

A. Fees associated with the application for a license shall include but not exceed the following stated amounts for each license:

(1) Annual production license: \$800 per location.

(2) Continuous production license: \$900 per location.

(3) Additional \$100 late fee for continuous production license renewal application received after February 1.

(4) Annual inspection fees for continuous and annual licenses per location:

(a) Outdoor production: \$6.00 per acre; minimum \$6.00.

(b) Indoor production: \$0.75 per 1,000 square feet; minimum \$5.00.

(c) Additional varietal fee: \$25 per variety in excess of one variety.

B. Annual inspection fees include only the cost of routine inspections and sampling visits as defined by department policy. Licensee shall be financially responsible for additional staff time and or fees directed at noncompliance issues, or additional sampling requirements, or other expenditures as required by the department and related to compliance requirements found in this rule and department policy. Reimbursable staff time or fees may be associated with mileage, per diem, and staff hours, as allowed by department rule or policy.
[21.20.2.10 NMAC - N, 12/11/2018]

21.20.2.11 INSPECTION/SAMPLING/TESTING:

A. All locations are subject to inspections by department staff or its authorized agents, without prior notification, to verify application information and compliance with rule requirements.

B. Unless directed otherwise by the department, all cannabis variety samples collected in support of obtaining a THC determination, shall be collected by the licensee at the direction and supervision of department staff. Licensee shall be responsible for delivery of cannabis variety samples to a department-approved laboratory, within five calendar days of sampling, to determine THC content using quantification methods approved by the department. It is the responsibility of each licensee to ensure the department receives THC quantification results for each sample prior to harvest, processing, or utilization of a cannabis variety in any manner. Licensee shall be financially responsible for costs associated with delivery and testing of samples. Sampling methodology shall be defined in department in policy.
[21.20.2.11 NMAC - N, 12/11/2018]

21.20.2.12 NONCOMPLIANT VARIETIES: A sample test result containing a delta-9-tetrahydrocannabinol concentration of more than three-tenths percent (.3 percent) on a dry weight basis (post decarboxylation) shall constitute evidence that at least one cannabis variety, plant or part of a plant in a location does not meet the THC requirements for hemp. Cannabis varieties, within a location, exhibiting THC levels greater than three-tenths of one percent (0.3 percent) shall be destroyed by a date determined by the department. The licensee is responsible for all costs related to crop destruction. Licensee may be provided the opportunity to resample and retest, pursuant to department policy.
[21.20.2.12 NMAC - N, 12/11/2018]

21.20.2.13 VIOLATIONS/PENALTIES: It is a violation of state and federal law to produce hemp without a valid hemp production license. Individuals, businesses, agencies, institutions, or other entities responsible for locations producing hemp, without a valid license will be provided five business days, after receipt of notification by the department, to submit a valid application or destroy the crop/plant. In accordance with state or federal law, the department may suspend or deny a license.
[21.20.2.13 NMAC - N, 12/11/2018]

21.20.2.14 EXEMPTIONS: The director shall have authority to review and grant exceptions to rule requirements and rule violations.
[21.20.2.14 NMAC - N, 12/11/2018]

21.20.2.15 RECORD RETENTION: The department shall retain applicant records including legal descriptions of hemp production locations for a period of no less than three years and in compliance with state records retention schedules.
[21.20.2.15 NMAC - N, 12/11/2018]

HISTORY OF 21.20.2 NMAC: [RESERVED]