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.

21.20.3.2 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.

21.20.3.3 STATUTORY AUTHORITY: Granted to the Board of Regents of New Mexico State University under the Hemp Manufacturing Act, Chapter 76, Article 24, Section xx, NMSA 1978 Compilation.

21.20.3.4 EFFECTIVE DATE: September 1, 2019.

21.20.3.5 DURATION: Permanent.

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.

21.20.3.7 DEFINITIONS:
A. “Applicant” means individual, business, agency, institution, or other entity that 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.
21.20.3.8 LICENSE YEAR: The license year for a Laboratory Hemp Testing License or for the Special Hemp Breeding License shall be a twelve-month period from the date of issuance of a license by the department.
[21.20.3.8 NMAC; N, xx/xx/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. License renewal late fees shall not exceed five hundred dollars ($500).
E. Fees may be waived by the director, when, in their discretion, special circumstance warrant such a waiver.
[21.20.3.9 NMAC; N, xx/xx/2019]

21.20.3.10 EFFECTIVE DATE OF APPLICATION AND FEES:
A. Completed license renewal packages postmarked before the expiration date of a licensee’s current license are subject to fee rates as described in Subsections A and B of 21.20.3.9 NMAC. Completed license renewal packages received by the department and postmarked after the expiration date stated on the licensee’s current license shall be considered late; and subject to an additional late fee.
B. The effective date of a license renewal conducted in person shall be the actual calendar date when the properly completed renewal package is presented to the department. License renewal packages may be received by the department only during regular business hours.
C. Incomplete or improperly completed renewal packages will be identified by the department and returned to the applicant for completion or correction.
[21.20.3.10 NMAC; N, xx/xx/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 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, as defined in policy; 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 the following:
   (1) Only follow 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.
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 of the first two tests, in that calendar year, are identified as satisfactory by the department.

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 proficiency testing events.

Disclose to the department potential conflicts of interest related to hemp testing including laboratory ownership, laboratory board members, or staff who have direct economic interests in a specific cannabis production.

The department is not responsible for any costs related to testing services for growers, or related to proficiency testing requirements directed by the department.

[21.20.3.11 NMAC; N, xx/xx/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 the department.

B. Application requirements by persons applying for a Special Hemp Breeding License shall comply with the following:

(1) 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.

(2) Submission to the department for review and approval plant breeder’s credentials and breeding objectives, as defined in policy.

(3) Provide department staff access to locations licensed under the Special Hemp Breeding License for the purpose of determining compliance with state rules and policies.

(4) Other requirements as developed and stated in policy.

C. Persons licensed by the department under the Special Hemp Breeding License shall comply with 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 identified by the licensee and 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, xx/xx/2019]

21.20.3.13 NON-COMPLIANCE:
A. 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, xx/xx/2019]

HISTORY OF 21.20.3. NMAC: [RESERVED]