

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 17 PEST, DISEASE, AND WEED CONTROL
PART XX HEMP PRODUCTION RULE

21.17.XX.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.
[21.17 NMAC-]

21.17.XX.2 **SCOPE:** All individuals, businesses, agencies, institutions, or other entities engaged in the production of hemp in New Mexico.
[21.17 NMAC-]

21.17.XX.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.
[21.17 NMAC-]

21.17.XX.4 **EFFECTIVE DATE:** January 1, 2019.
[21.17 NMAC-]

21.17.XX.5 **DURATION:** Permanent.
[21.17 NMAC-]

21.17.XX.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.
[21.17 NMAC-]

21.17.XX.7 **DEFINITIONS:**

1. **“Annual Production”** means production of a single crop that is destroyed within two hundred and forty days (240 days) of planting.
2. **“Applicant”** means individuals, businesses, agencies, institutions, or other entities that have submitted an application to the department.
3. **“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.
4. **D. “Business Day”** means normal business hours and days as defined by New Mexico State University policy.
5. **“Cannabis”** means a plant of the genus cannabis.
6. **F. “Continuous Production”** means production of hemp throughout the year in a registered location.
7. **“Crop”** means planting or one or more hemp varieties within a two week (2 week) contiguous period within a location.
8. **“Department”** means the New Mexico department of agriculture.

9. **“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 secretary.
 10. **“Director”** means the director/secretary of New Mexico department of agriculture or designee.
 11. **“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 on a dry weight basis.
 12. **“Law Enforcement”** means federal, state, and local agencies responsible for maintaining public order and enforcing the law.
 13. **“License”** means document issued to an applicant by the department authorizing a licensee to produce hemp at a specific location
 14. **“Licensee”** means individuals, businesses, agencies, institutions, or other entities that possess a valid hemp production license.
 15. **“License Period”** The license period shall begin at date of license issuance and terminate either 240 days after date of issuance or crop destruction, whichever occurs first, for hemp grown under an annual production license.
 16. **“License Year”** The license year shall be a 12-month period from February 1 to January 31 for a continuous production license.
 17. **“Location”** means contiguous area for which a licensee holds a valid hemp production license, (i.e., contiguous farmland, contiguous greenhouse operation) that is owned by, or leased from an entity.
 18. **“Personal Production”** means production of hemp at a single location, annual or continuous, that shall not exceed 20 plants per location. Hemp produced under a personal production license shall not be used for commercial purposes.
 19. **“Secretary”** means director/secretary of agriculture for New Mexico.
 20. **“THC”** means delta-9 tetrahydrocannabinol.
 21. **“Variety”** to be synonymous with cultivar or strain.
- [21.17 NMAC-]

21.17.XX.7 APPLICATION/LICENSE:

Annual Production Application and 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 application for documents submitted in person shall be the actual calendar date the applicant presents a properly completed application. Incomplete or improperly completed renewal 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. Any viable plants remaining after the expiration of a license shall be declared for inclusion in a subsequent application. An annual hemp production license is valid for a license period for specified varieties grown annually at a specified location.

Continuous Production Application and License:

Applications for a new location shall be made 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 hemp 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 hemp production license is valid for a license year for specified varieties grown continuously at a specified location.

[21.17 NMAC-]

Personal Use Production Application and License:

Applications for a new location shall be made 25 business days prior to planting or prior to other propagative activities. Applicants producing hemp for personal use shall apply for a renewal of their personal hemp production license prior to February 1 of each year as defined by department policy. 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 renewal application for documents submitted in person shall be the actual calendar date the applicant presents a properly completed application. Personal hemp production license is valid for a license year for specified varieties grown continuously or annually at a specified location.

21.17.XX.8 APPLICATION INFORMATION: Each applicant for a hemp production license, annual, continuous, or personal, shall submit a signed, complete, accurate, and legible application form provided by the department including fees.

[21.17 NMAC-]

21.17.XX.9 APPLICANT ACKNOWLEDGMENTS: By submitting an application, the applicant acknowledges and agrees to:

1. Submit all required documents by due dates specified by the department.
2. Not assigned or transferred to another business, location, individual, or other entity the license.
3. Destroy cannabis plants covered under this rule and found not to be in compliant with requirements set forth in this rule or department policy.
4. Not initiate harvest, for commercial purposes, without a department approved variety-specific laboratory analysis demonstrating cannabis varieties grown at that location meet the definition of hemp.
5. Be in compliance with state and federal regulation regarding the production of hemp.

6. Remit payment to the department for fees associated with enforcement of this rule within 20 calendar days of receipt of notice. Each subsequent notification resulting in a failure to remit payment will be considered a separate violation.

[21.17 NMAC-]

21.17.XX.10 FEES: Fees associated with the application for a license shall include but not exceed the following stated amounts for each license:

1. Annual production application and licensing, excluding personal production: \$900 per location
2. Continuous production application and licensing, excluding personal production: \$900 per location
3. \$100 late fee for continuous renewal applications received after February 1 per location
4. Additional area inspection fee for continuous and annual application and license:
5. Outdoor production: \$6.00 per acre; minimum \$6.00
6. Indoor production: \$0.75 per 1,000 square feet; minimum \$5.00
7. D. Personal production application and license: \$25 per location:
8. \$15 late fee applicable for renewals received after February 1 per location

Stated fees for a registered location are inclusive 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. Reimbursable staff time or fees may be associated with mileage, per diem, and staff hours as allowed by department policy or rule.

[21.17 NMAC-]

21.17.XX.11 INSPECTION/SAMPLING: All registered locations are subject to inspections by department staff or authorized agent to verify application information and compliance with rule requirements.

All cannabis 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 samples to a department-approved laboratory within ten (10) calendar days of sampling, to determine THC content using quantification methods approved by the department. It is the responsibility of each licensee to ensure THC sample result report is forwarded to the department by the approved laboratory within five working days after completion of analysis. Licensee shall be financially responsible for costs associated with delivery and testing of samples. Sampling methodology shall be defined by the department.

[21.17 NMAC-]

21.17.XX.12 NONCOMPLIANT VARIETIES: A sample test result containing a delta-9-tetrahydrocannabinol concentration of more than three-tenths percent on a dry weight basis shall constitute evidence that at least one cannabis plant or part of a plant in a location does not meet the THC standards for hemp. Cannabis varieties exhibiting THC levels greater than three-tenths of one percent (0.3 percent) shall be destroyed by a date determined by the department. Locations growing cannabis varieties greater than one percent (1.0 percent) THC may be reported to an appropriate law enforcement agency.

Licensee may be provided the opportunity to resample and retest, pursuant to department policy.
[21.17 NMAC-]

21.17.XX.13 VIOLATIONS/PENALTIES: It is a violation of state law to produce hemp without a valid license. Individuals, businesses, agencies, institutions, or other entities responsible for locations producing hemp, without a valid license will be provided 5 business days, after receipt of notification by the department, to submit a valid application or destroy the crop/plant. The department may summarily suspend or deny license for a period of up to five years for violations of this rule.
[21.17 NMAC-]

21.17.XX.14 EXEMPTIONS:

The secretary shall have authority to review and grant exceptions to rule requirements and rule violations.

21.17.XX.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.
[21.17 NMAC-]

HISTORY OF 21.17.XX NMAC: [RESERVED]

From the results of the analysis, it is concluded that the results of the analysis are as follows:

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