

This is an emergency amendment to 20.10.2 NMAC, Sections 7, 11 & 15, effective 9/1/2025.

20.10.2.7 DEFINITIONS:

- A.** “Act” means the Hemp Manufacturing Act, Section 76-24-1, et seq., NMSA 1978.
- B.** “Adulterated” has the meaning stated in the New Mexico Food Act, Section 25-2-10 NMSA 1978.
- C.** “Applicant” means a person who has submitted a hemp facility application to the regulatory authority.
- D.** “Application” means documents provided by, and submitted to, the regulatory authority by an applicant as part of the process for obtaining a permit to extract, process, or engage in other manufacturing activities of hemp or hemp products.
- E.** “Approved” means acceptable to the regulatory authority based on the regulatory authority’s determination of conformity with principles, practices, and generally recognized standards that protect public health and compliance with the requirements of this part and the act.
- F.** “Blend” means to combine into an integrated whole.
- G.** “Board” means the environmental improvement board.
- H.** “Cannabis sativa L.” means the plant cannabis sativa L. and any part of the plant, whether growing or not.
- I.** “CBD” means cannabidiol and is a cannabinoid and the primary non-psychoactive ingredient found in hemp.
- J.** “Certificate of analysis” means an official certificate issued by a hemp laboratory signed by an authorized official of the hemp laboratory that guarantees the results of the laboratory’s testing of a sample.
- K.** “Conditional employee” means a potential hemp employee to whom a job offer is made, conditional on responses to subsequent medical questions or examinations designed to identify potential hemp employees who may be suffering from a disease that may be transmitted through hemp, hemp extract, hemp-derived material, or hemp finished product and done in compliance with Title 1 of the Americans with Disabilities Act of 1990.
- L.** “Disposition” means storing, transferring to another person, or disposal.
- M.** “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.
- N.** “Employee” means the permit holder, person in charge, hemp 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 a hemp facility.
- O.** “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.
- P.** “Hemp-derived material” means any material containing THC in any concentration derived from cannabis sativa L. through any activity authorized pursuant to the act.
- Q.** “Hemp employee” means an individual working with unpackaged hemp products or equipment utensils, or surfaces that contact unpackaged hemp products.
- R.** “Hemp extract” means oil and extracts, including cannabidiol, cannabidiolic acid, and other identified and non-identified compounds derived from hemp.
- S.** “Hemp extraction facility” means an operation that produces hemp extract.
- T.** “Hemp facility” means a hemp extraction facility, hemp manufacturing facility, hemp processing facility or hemp warehouse.
- U.** “Hemp finished product” means a hemp product that is intended for retail sale and containing hemp or hemp extracts for human consumption, absorption, or inhalation that has a THC concentration of not more than three-tenths of one percent (0.30%).
- V.** “Hemp harvest certificate” means a document issued by the New Mexico department of agriculture to a person licensed to harvest hemp for distribution or sale certifying that a quantity of hemp meets the THC concentration required pursuant to 21.20.3 NMAC.
- W.** “Hemp laboratory” means an analytical laboratory approved by the regulatory authority to conduct laboratory analysis of hemp products.

X. “Hemp manufacturing facility” means an operation, other than a hemp extraction facility, that produces hemp products, other than hemp extract, and provides hemp products for sale or distribution to other business entities.

Y. “Hemp processing facility” means an operation, other than a hemp manufacturing facility, where hemp is processed or dried into a hemp finished product or into a hemp product that does not require further processing before being offered as a hemp finished product.

Z. “Hemp products” means hemp, hemp-derived material, hemp extract, and hemp finished product.

AA. “Hemp transportation manifest” means a form used for identifying the quantity, composition, origin, and destination of hemp products during transportation.

BB. “Hemp transportation unit” means a motor vehicle department-licensed, driven or towed wheeled vehicle utilized to transport hemp products.

CC. “Hemp warehouse” means a location, other than a hemp extraction facility or hemp manufacturing facility, where hemp extract is stored.

DD. “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:

- (1) the number of potential injuries; and
- (2) the nature, severity, and duration of the anticipated injury.

EE. “Law” means applicable local, state, and federal statutes, regulations, and ordinances.

FF. “Licensee” means a person that possesses a valid license for hemp production issued by NMDA.

GG. “Misbranded” has the meaning stated in the New Mexico Food Act, Section 25-2-11 NMSA 1978.

HH. “NMDA” means the New Mexico department of agriculture.

II. “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 hemp facility when processing hemp products.

JJ. “Permit” means the document issued by the regulatory authority that authorizes a person to operate a hemp facility.

KK. “Permit holder” means the entity that:

- (1) is legally responsible for the operation of the hemp facility such as the owner, the owner's agent, or other person; and
- (2) possesses a valid permit to operate a hemp facility.

LL. “Person” means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.

MM. “Person in charge” means the individual present at a hemp facility who is responsible for the operation at the time of inspection.

NN. “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.

OO. “Poisonous or toxic materials” means substances that are not intended for ingestion and are included in four categories:

- (1) Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;
- (2) pesticides, except sanitizers, which include substances such as insecticides and rodenticides;
- (3) 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
- (4) 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.

PP. “Premises” means:

- (1) The physical facility, its contents, and the contiguous land or property under the control of the permit hold; or

(2) the physical facility, its contents, and the land or property not described in Paragraph (1) of this definition if its facilities and contents are under the control of the permit holder and may impact hemp facility personnel, facilities, or operations, and a hemp facility is only one component of a larger operation.

QQ. “Process authority” means an approved expert in the processes for controlling pathogenic microorganisms in food and/or hemp 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.

RR. “Public water system” has the meaning stated in 20.7.10 NMAC.

SS. “Recall” means a return of hemp products that are either known or suspected to be adulterated, misbranded, or otherwise unsafe for human consumption, to the manufacturer or distributor, or that are disposed of by approved methods.

TT. “Regulatory authority” means the New Mexico environment department.

UU. “RLD / LP Gas Bureau” means the New Mexico regulation and licensing department, LP gas bureau.

VV. “Secretary” means the secretary of New Mexico environment department or a designee.

WW. “Semi-synthetic cannabinoid” means a substance that is created by a chemical reaction that converts one cannabinoid extracted from a *Cannabis sativa* L. directly into a different cannabinoid. Semi-synthetic cannabinoid does not include cannabinoids produced via decarboxylation of naturally occurring acidic forms of cannabinoids, such as Tetrahydrocannabinolic acid into the corresponding neutral cannabinoid, such as THC, through the use of heat or light, without the use of chemical reagents or catalysts, and that results in no other chemical change.

~~[WW.]~~ **XX. “Sewage”** means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

~~YY.~~ **“Semi-synthetic cannabinoid”** means a substance that is created by a chemical reaction that converts one cannabinoid extracted from a *Cannabis sativa* L. directly into a different cannabinoid. Semi-synthetic cannabinoid does not include cannabinoids produced via decarboxylation of naturally occurring acidic forms of cannabinoids, such as Tetrahydrocannabinolic acid into the corresponding neutral cannabinoid, such as THC, through the use of heat or light, without the use of chemical reagents or catalysts, and that results in no other chemical change.

~~[XX.]~~ **ZZ. “THC”** means delta-9 tetrahydrocannabinol (CAS number 1972-08-3) as measured using a post-decarboxylation method and based on percentage dry weight.

~~[YY.]~~ **AAA. “THCA”** means tetrahydrocannabinolic acid (CAS number 23978-85-0).

~~[ZZ.]~~ **BBB. “Variance”** means a written document issued by the regulatory authority that authorizes a modification or waiver of one or more requirements of this part if the regulatory authority determines that no hazard to human health or the environment will result from the modification or waiver.
[20.10.2.7 NMAC - N, 1/28/2020; A/E, 9/1/2025]

20.10.2.11 HEMP FACILITY REQUIREMENTS:

A. After the effective date of this part and unless otherwise provided, it is illegal to operate a hemp facility which does not meet the requirements of this section.

B. Adoption of 21 CFR 117 Subparts A, B, and F. Except as otherwise provided, Subparts A, B, and F of the United States code of federal regulations, title 21, part 117 are hereby adopted and incorporated in their entirety.

C. Modifications. Except as otherwise provided, the following modifications are made to the incorporated subparts of 21 CFR 117:

(1) 117.301: All records required by this part are subject to all requirements of this subpart;
(2) 117.315(c): Offsite storage of records is permitted if such records can be retrieved and provided onsite within 24 hours of request for official review. Electronic records are considered to be onsite if they are accessible from an onsite location; and

(3) 117.320: All records required by this part must be made promptly available to the regulatory authority for official review and copying upon oral or written request.

D. Omissions. The following provisions are omitted from the incorporated subparts of 21 CFR 117:

- (1) 117.1;
- (2) 117.5;
- (3) 117.7;
- (4) 117.8;

- (5) 117.310;
- (6) 117.315(d);
- (7) 117.325; and
- (8) 117.335.

E. The current 21 CFR 111 and United States federal food, drug, and cosmetic act, title 21, chapter 9 are hereby adopted as a technical reference and interpretation guide.

F. Hemp and Hemp Product Source and Hemp Product Transportation.

(1) Hemp facilities shall not receive hemp without a hemp harvest certificate issued by NMDA or a person approved by the regulatory authority verifying the hemp being transported has a THC concentration of not more than three-tenths of one percent (0.30%) on a dry weight basis.

(2) Hemp facilities shall not receive hemp-derived material or hemp extract ~~[or hemp finished product]~~ unless:

(a) at, or before the time of receiving it, documentation is obtained by the hemp facility, from the company providing it, demonstrating it is hemp-derived;

~~[(a)]~~ (b) it is received from an NMED permitted hemp facility or a person approved by the regulatory authority;

~~[(b)]~~ (c) it is accompanied by a hemp transportation manifest; and

~~[(c)]~~ (d) hemp finished products intended for human consumption or hemp products that will be utilized as ingredients in hemp finished products intended for human consumption were transported under conditions that will protect against allergen cross-contact and against biological, chemical (including radiological), and physical contamination of food, as well as against deterioration of the food and the container in accordance with the New Mexico Food Service Sanitation Act and the New Mexico Food Act.

G. Records and Traceability.

(1) Hemp facilities shall implement the approved record keeping system at all times and shall maintain traceability records for a period of two years.

(2) Hemp facilities shall maintain all shipping records and records of receipt for all hemp products for a period of two years, including but not limited to:

- (a) hemp harvest certificate;
- (b) hemp transportation manifest;
- (c) date of receipt; and
- (d) certificate of analysis, if hemp finished product.

H. Hemp facilities shall maintain the operational plans and recall plan, accepted by the regulatory authority, onsite during all hours of operation and shall make them available for review by the regulatory authority.

I. The final disposition of all unused hemp product and residual solvents shall be conducted as approved by the regulatory authority in Subsection C of 20.10.2.8 NMAC.

J. The permit holder shall be responsible to ensure the security of, and limit access to, hemp-derived material with a THC concentration of greater than three-tenths of one percent (0.30%).

K. Except as provided in Subsections L and M of this section, when conducting activities authorized under the Act or this Part, a hemp facility shall not receive, possess, manufacture, offer, advertise, market, or sell semi-synthetic cannabinoids or synthetic cannabinoids or products containing semi-synthetic cannabinoids or synthetic cannabinoids.

L. Except as provided in Subsection M of this section, A hemp facility may receive and use as an ingredient in hemp finished products semi-synthetic cannabinoids or synthetic cannabinoids identified in Paragraphs (1) through (9) of this subsection, provided that before use in manufacturing, laboratory analysis completed by an approved analytical laboratory of the semi-synthetic cannabinoid or synthetic cannabinoid demonstrate the cannabinoid has a purity of greater than or equal to 98 percent. Semi-synthetic cannabinoids or synthetic cannabinoids meeting the purity requirements of this Subsection that may be received and used as an ingredient in hemp finished products are:

- (1) Delta-9 tetrahydrocannabivarin tetrahydrocannabivarin (THCV);
- (2) Cannabichromene (CBC);
- (3) Cannabicitran (CBT);
- (4) Cannabicyclol (CBL);
- (5) Cannabielsoin (CBE);
- (6) Cannabigerol (CBG);
- (7) Cannabidivarin (CBDV);
- (8) Cannabidiol (CBD); and

(9) Cannabinol (CBN).

M. Subsections L and M of this section are effective beginning September 15, 2025.
[20.10.2.11 NMAC - N, 1/28/2020; A/E, 9/1/2025]

20.10.2.15 HEMP LABORATORIES: Analytical ~~[Testing]~~ testing required in ~~[20.10.2.14 NMAC]~~ this part shall be conducted by an approved analytical laboratory that has no direct ownership or financial interest in the hemp facility for which the testing is being conducted.

[20.10.2.15 NMAC - N, 1/28/2020; A/E, 9/1/2025]