

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 8 COMMERCIAL AND MEDICAL CANNABIS
PART 1 GENERAL PROVISIONS

16.8.1.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department, Cannabis Control Division.
[16.8.1.1 NMAC – N, 08/24/2021]

16.8.1.2 SCOPE: This rule applies to all applicants for licensure pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act or division rules, and where applicable, the general public.
[16.8.1.2 NMAC - N, 08/24/2021]

16.8.1.3 STATUTORY AUTHORITY: The requirements set forth herein are promulgated by the cannabis control division pursuant to the authority granted under the Cannabis Regulation Act and the licensing provisions of the Lynn and Erin Compassionate Use Act.
[16.8.1.3 NMAC - N, 08/24/2021]

16.8.1.4 DURATION: Permanent.
[16.8.1.4 NMAC - N, 08/24/2021]

16.8.1.5 EFFECTIVE DATE: August 24, 2021, unless a later date is cited at the end of a section.
[16.8.1.5 NMAC - N, 08/24/2021]

16.8.1.6 OBJECTIVE: The objective of Part 1 is to set forth the general provisions that apply to all of Chapter 8, and to all persons affected or regulated by Chapter 8 of Title 16.
[16.8.1.6 NMAC - N, 08/24/2021]

16.8.1.7 DEFINITIONS: Unless otherwise defined below, terms used in Title 16, Chapter 8, have the same meanings as set forth in the Cannabis Regulation Act and the Lynn and Erin Compassionate Use Act.

A. Definitions beginning with “A”:

(1) **“Advisory committee”** means the cannabis regulatory advisory committee.

(2) **“Applicant”** means any person who is seeking to become licensed pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules.

B. Definitions beginning with “B”: **“Batch”** means, with regard to cannabis, an identified quantity of cannabis no greater than 15 pounds that is of the same strain of cannabis, that is harvested during the same specified time period from the same specified cultivation area, and with respect to which the same agricultural practices were utilized, including the use of any pesticides; and with regard to concentrated and cannabis product, means an identified quantity that is uniform, that is intended to meet specifications for identity, strength, and composition, and that is manufactured, packaged, and labeled during a specified time period according to a single manufacturing, packaging, and labeling protocol.

C. Definitions beginning with “C”:

(1) **“Cannabis Regulation Act”** means the Cannabis Regulation Act, as enacted in Chapter 4, Sections 1 through 42 of New Mexico Laws of 2021, and as may be amended thereafter.

(2) **“Cannabis Waste”** means all parts of the plant genus Cannabis which may or may not contain a delta-9-tetrahydrocannabinol concentration of more than three-tenths percent on a dry weight basis, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin; and the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake; or the sterilized seed of the plant that is incapable of germination which has been designated as no longer usable cannabis.

(3) **“Carbon dioxide solvent”** means carbon dioxide in a liquid or supercritical state.

(4) **“CBD”** means cannabidiol, a cannabinoid and a non-psychoactive ingredient found in cannabis.

(5) **“CBDA”** means cannabidiolic acid, a non-psychoactive ingredient found in cannabis and an acid precursor to CBD.

(6) **“Closed loop extraction system”** means a commercially manufactured extraction system

that is sealed during operation and designed to recover all solvents used during the extraction process through a feedback loop.

(7) **“Concentrated cannabis product (“concentrate”)** means a cannabis product that is manufactured by a division approved mechanical or chemical process that separates any cannabinoid from the cannabis plant, and that contains or that is intended to contain at the time of sale or distribution, no less than thirty-percent THC by weight.

D. Definitions beginning with “D”:

(1) **“Delivery agreement”** means a contract between a licensed cannabis establishment and a licensed cannabis courier to deliver cannabis or cannabis products from the cannabis establishment directly to consumers as permitted under the provisions of the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, and division rule.

(2) **“Division”** means the cannabis control division.

(3) **“Diversion”** means the unlawful transfer of a cannabis plant, plant material, or cannabis product.

(4) **“Dried cannabis”** means the dried leaves, flowers, and trim of the female cannabis plant, but does not include the seeds, stalks, or roots of the cannabis plant.

E. Definitions beginning with “E”: **“Extraction area”** means the area of a licensed manufacturer’s processing facility that is designed for solvent-based extraction, which the division has inspected and approved for the area’s designated use.

F. Definitions beginning with “F”: [RESERVED]

G. Definitions beginning with “G”: [RESERVED]

H. Definitions beginning with “H”:

(1) **“Homogeneity”** means the reasonably equal dispersion of cannabinoids throughout a batch of cannabis product and within the cannabis product as packaged or as intended for sale.

(2) **“Hydrocarbon solvent”** means N-butane, isobutene, propane, pentane, heptane, or any isomer or combination thereof.

I. Definitions beginning with “I”: **“Independent professional engineer”** means an engineer licensed pursuant to the Engineering and Surveying Practice Act, Section 61-23-1 *et seq.*, NMSA 1978, that is not an employee, owner, officer, controlling person, board member, or manager of the cannabis establishment licensee.

J. Definitions beginning with “J”: [RESERVED]

K. Definitions beginning with “K”: [RESERVED]

L. Definitions beginning with “L”:

(1) **“Licensee”** means any person who holds a license issued by the division pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules.

(2) **“Limited-access area”** means an indoor or outdoor area on the premises of a licensed cannabis establishment where cannabis or cannabis products are cultivated, stored or held, weighed, packaged, manufactured, disposed or wasted, all point-of-sale (POS) areas, and any room or area storing a digital video surveillance system storage device.

(3) **“Limit of detection”** means an estimate of the minimum amount of an analyte in a given matrix that an analytical process can reliably detect.

(4) **“Limit of quantitation”** means the minimum level, concentration, or quantity of a target analyte in a given matrix that an analytical process can reliably quantitate.

(5) **“Liquor Control Act”** mean the Liquor Control Act, Chapter 60, Articles 3A, 5A, 6A, 6B, 6C, 6E, 7A, 7B and 8A, NMSA 1978.

(6) **“Lot”** means an identified portion of a batch, that is uniform and that is intended to meet specifications for identity, strength, and composition; or, in the case of a cannabis product or concentrate, an identified quantity produced in a specified period of time in a manner that is uniform and that is intended to meet specifications for identity, strength, and composition.

(7) **“Lynn and Erin Compassionate Use Act”** means the Lynn and Erin Compassionate Use Act, Section 26-2B-1 *et seq.*, NMSA 1978.

M. Definitions beginning with “M”: **“Minor”** means an individual who is less than 18 years of age.

N. Definitions beginning with “N”: [RESERVED]

O. Definitions beginning with “O”: [RESERVED]

P. Definitions beginning with “P”:

(1) **“Pesticide”** means a pesticide as defined by the New Mexico Pesticide Control Act, Section 76-4-1 *et seq.*, NMSA 1978.

- (2) **“Plant”** means any cannabis plant, cutting, or clone that has roots or that is cultivated with the intention of growing roots.
- (3) **“Plant material”** means leaves, stalks, stems, roots, and any other part of the cannabis plant.
- (4) **“Pressure vessel”** means a component of a closed loop system containing cannabis plant material and solvents used during solvent-based extraction and designed to withstand pressure greater than 15 psi.
- (5) **“Policy”** means a written statement of principles that guides and determines present and future decisions and actions of the licensed person.
- (6) **“POS”** means point of sale system.
- (7) **“Person”** means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or any other legal or commercial entity.
- (8) **“Produce”** means to engage in any activity related to the planting or cultivation of cannabis.
- (9) **“Proficiency testing”** means a standardized test administered by an ISO 17043 accredited laboratory to evaluate the ability of a laboratory to measure, within acceptable limits, the presence, quantity, or other factors pertaining to a given analyte.
- Q. Definitions beginning with “Q”: [RESERVED]**
- R. Definitions beginning with “R”:**
- (1) **“Recall”** means to request the return of a product after the discovery of a safety issue or product defect.
- (2) **“RLD”** means the regulation and licensing department.
- S. Definitions beginning with “S”:**
- (1) **“Safe moisture level”** means a level of moisture low enough to prevent the growth of undesirable microorganisms in the finished produce.
- (2) **“Security alarm system”** means any device or series of devices capable of alerting law enforcement, including, but not limited to, a signal system interconnected with a radio frequency method such as cellular, private radio signals, or other mechanical or electronic device used to detect or report an emergency or unauthorized intrusion.
- (3) **“Segregate”** means to separate and withhold from use or sale batches, lots, cannabis, usable cannabis, or cannabis products in order to first determine its suitability for use through testing by an approved laboratory.
- (4) **“Solvent”** means a hydrocarbon solvent, carbon dioxide solvent, or organic solvent, which is used to dissolve or disperse chemical compounds from cannabis plant material in a closed loop system.
- (5) **“Solvent-based extraction”** means the process of dissolving or dispersing specific chemical compounds from the cannabis plant material using a solvent in a closed loop system.
- T. Definitions beginning with “T”:**
- (1) **“THC”** means tetrahydrocannabinol, a cannabinoid that is the primary psychoactive ingredient in cannabis.
- (2) **“THCA”** means tetrahydrocannabinolic acid, a non-psychoactive ingredient in cannabis and an acid precursor to THC.
- (3) **“Testing”** means testing of cannabis and cannabis products consistent with division rules.
- (4) **“Track and trace system”** means the electronic system designated by the division to track and trace the production, transportation, sale, and wastage of cannabis and cannabis products.
- U. Definitions beginning with “U”: [RESERVED]**
- V. Definitions beginning with “V”:**
- (1) **“Vault”** means a limited access storage room that is within a licensed cannabis establishment and is outfitted with adequate security features for the purposes of storing cannabis, cannabis products, or cash.
- (2) **“Volatile solvent”** means a hydrocarbon solvent, alcohol, or acetone.
- W. Definitions beginning with “W”:**
- (1) **“Waste” or “wastage”** means the process of rendering cannabis or cannabis products unusable and unrecognizable, including the destruction of cannabis or cannabis products.
- (2) **“Water activity”** means the measure of the free moisture in a manufactured cannabis product and is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature.
- X. Definitions beginning with “X”: [RESERVED]**

Y. Definitions beginning with “Y”: [RESERVED]

Z. Definitions beginning with “Z”: [RESERVED]

[16.8.1.7 NMAC - N, 08/24/2021; A, 12/28/2021; A, 01/11/2022]

16.8.1.8 SOCIAL AND ECONOMIC EQUITY:

A. Division mandate: Pursuant to the Cannabis Regulation Act, Paragraphs (7) and (8) of Subsection B of Section 26-2C-3 NMSA 1978, the division must adopt procedures to promote and encourage full participation in the cannabis industry of representatives of communities that have disproportionately been harmed by rates of arrest through the enforcement of cannabis prohibitions and encourage racial, ethnic, gender, geographic diversity, and New Mexico residency among license applicants, licensees and cannabis industry employees. Policies must also encourage representatives from rural communities that are likely to be impacted by cannabis production, including agricultural producers from economically disadvantaged communities.

B. Division goal: To accomplish these mandates, the division establishes a goal that at least fifty percent of applicants for licensure, licensees, and cannabis industry employees will represent these groups.

[16.8.1.8 NMAC - N, 08/24/2021; A, 03/22/2022]

16.8.1.9 FEDERAL LAW: The activities described in these rules may be considered a violation of federal law. Persons cultivating, manufacturing, collecting samples of, testing, selling, purchasing or otherwise receiving cannabis or cannabis products may be subject to federal sanctions for what may otherwise be considered authorized conduct in the State of New Mexico, and compliance with the rule does not exempt licensees, their employees or customers from possible federal prosecution. The division is not responsible or liable for the actions of licensed cannabis establishments under the rule.

[16.8.1.9 NMAC - N, 08/24/2021]

16.8.1.10 LABOR PEACE AGREEMENT: Cannabis establishment licensees, excluding cannabis producer microbusiness and integrated cannabis microbusiness, are encouraged to maintain a labor peace agreement with a bona-fide labor organization that is actively engaged in representing or attempting to represent the applicant’s employees. For purposes of this section, a labor peace agreement between a cannabis establishment and a bona fide labor organization includes protecting the state’s interests by, at a minimum, prohibiting the labor organization from engaging in picketing, work stoppages, or boycotts against the cannabis establishment. An applicant, whether for an initial license or renewal of a license, must submit an attestation confirming whether or not the applicant has entered into a labor peace agreement with a bona fide labor organization that is actively engaged in representing or attempting to represent the applicant’s employees.

[16.8.12.10 NMAC – Rp, 16.8.1.10 NMAC, 07/12/2022]

16.8.1.11 SEVERABILITY: If any part or application of this rule is held to be invalid, the remainder or its application to other situations or persons shall not be affected. Any section of this rule legally severed shall not interfere with the remaining protections and duties provided by this rule.

[16.8.12.11 NMAC - N, 08/24/2021; Rn, 16.8.1.10, 07/12/2022]

History of 16.8.1 NMAC: [RESERVED]