

# The Vermont Statutes Online

## Title 6: Agriculture

### Chapter 34: Hemp

#### § 561. Findings; intent

(a) Findings.

(1) Hemp has been continuously cultivated for millennia, is accepted and available in the global marketplace, and has numerous beneficial, practical, and economic uses, including: high-strength fiber, textiles, clothing, biofuel, paper products, protein-rich food containing essential fatty acids and amino acids, biodegradable plastics, resins, nontoxic medicinal and cosmetic products, construction materials, rope, and value-added crafts.

(2) The many agricultural and environmental beneficial uses of hemp include: livestock feed and bedding, stream buffering, erosion control, water and soil purification, and weed control.

(3) The hemp plant, an annual herbaceous plant with a long slender stem ranging in height from four to 15 feet and a stem diameter of one-quarter to three-quarters of an inch is morphologically distinctive and readily identifiable as an agricultural crop grown for the cultivation and harvesting of its fiber and seed.

(4) Hemp cultivation will enable the State of Vermont to accelerate economic growth and job creation, promote environmental stewardship, and expand export market opportunities.

(5) Section 10113 of the Agriculture Improvement Act of 2018, Pub. L. No. 115-334 authorizes the growing, cultivation, and marketing of industrial hemp under a U.S. Department of Agriculture approved State program.

(b) Purpose. The intent of this chapter is to establish policy and procedures for growing, processing, testing, and marketing hemp and hemp products in Vermont that comply with federal law so that farmers and other businesses in the Vermont agricultural industry can take advantage of this market opportunity. (Added 2007, No. 212 (Adj. Sess.), § 2; amended 2013, No. 84, § 1; 2017, No. 143 (Adj. Sess.), § 5; 2019, No. 44, § 1, eff. May 30, 2019.)

#### § 562. Definitions

As used in this chapter:

(1) "Agency" means the Agency of Agriculture, Food and Markets.

(2)(A) "Grow" means:

(i) planting, cultivating, harvesting, or drying of hemp; and

(ii) selling, storing, and transporting hemp grown by a grower.

(B) "Grow" may be used interchangeably with the word "produce."

(3) "Grower" means a person who is registered with the Agency to produce hemp crops.

(4) "Hemp products" or "hemp-infused products" means all products with the federally defined tetrahydrocannabinol concentration level for hemp derived from, or made by, processing hemp plants or plant parts, that are prepared in a form available for commercial sale, including cosmetics, personal care products, food intended for animal or human consumption, cloth, cordage, fiber, fuel, paint, paper, construction materials, plastics, and any product containing one or more hemp-derived cannabinoids, such as cannabidiol.

(5) "Hemp" or "industrial hemp" means the plant *Cannabis sativa* L. and any part of the plant, including the seeds and all derivatives, extracts, cannabinoids, acids, salts, isomers, and salts of isomers, whether growing or not, with the federally defined tetrahydrocannabinol concentration level of hemp. "Hemp" shall be considered an agricultural commodity.

(6) "Process" means the storing, drying, trimming, handling, compounding, or converting of a hemp crop by a processor for a single grower or multiple growers into hemp products or hemp-infused products. "Process" includes transporting, aggregating, or packaging hemp from a single grower or multiple growers.

(7) "Processor" means a person who is registered with the Agency to process hemp crops. A retail establishment selling hemp products or hemp-infused products is not a processor.

(8) "Secretary" means the Secretary of Agriculture, Food and Markets. (Added 2007, No. 212 (Adj. Sess.), § 2; amended 2013, No. 84, § 1; 2017, No. 143 (Adj. Sess.), § 5; 2019, No. 44, § 1, eff. May 30, 2019.)

### **§ 563. Hemp; an agricultural product**

Industrial hemp is an agricultural product that may be grown as a crop produced, possessed, marketed, and commercially traded in Vermont pursuant to the provisions of this chapter and section 10113 of the Agriculture Improvement Act of 2018, Pub. L. No. 115-334. The cultivation of industrial hemp shall be subject to and comply with the required agricultural practices adopted under section 4810 of this title. (Added 2007, No. 212 (Adj. Sess.), § 2; amended 2013, No. 84, § 1; 2015, No. 64, § 13; 2017, No. 143 (Adj. Sess.), § 5; 2019, No. 44, § 1, eff. May 30, 2019.)

### **§ 564. State Hemp Program; registration; application; administration**

(a) The Secretary shall establish and administer a State Hemp Program to regulate the growing, processing, testing, and marketing of industrial hemp and hemp products in the State.

(b)(1) A person shall register annually with the Secretary as part of the State Hemp Program in order to grow, process, or test hemp or hemp products in the State. A person shall apply for registration or renewal of a registration on a form provided by the Secretary.

The application shall be accompanied by the fee required under section 570 of this title. The application or renewal form shall include:

- (A) the name and address of the person applying for or renewing a registration;
- (B) whether the person is applying to grow, process, or test hemp or hemp products;
- (C) for a person applying as a grower:
  - (i) the location and acreage of all parcels where hemp will be grown;
  - (ii) a statement that the seeds obtained for planting are of a type and variety that do not exceed the federally defined tetrahydrocannabinol concentration level of hemp;
- (D) for a person applying as a processor, the location of the processing site;
- (E) for a person applying to test hemp or hemp products, the location of the site where testing will occur and any proof of certification required by the Secretary; and
- (F) any additional information that the Secretary may require by rule.

(2) The Secretary may verify the information provided in the application or renewal form under subdivision (1) of this subsection and on any maps accompanying the application or renewal form and may request additional information in order to perform a review of an application for registration or renewal.

- (c) The Secretary may deny an application for registration or renewal if the applicant:
  - (1) does not provide all the information requested on the application or renewal form;
  - (2) fails to submit the fee required under section 570 of this title;
  - (3) fails to submit additional information requested by the Secretary under subsection (a) of this section; or
  - (4) does not, as determined by the Secretary, satisfy the requirements of section 10113 of the Agriculture Improvement Act of 2018, Pub. L. No. 115-334 for participation in the Program.

(d) A person registered under this section may purchase or import hemp genetics from any state that complies with the federal requirements for the cultivation of industrial hemp.

(e) A person registered with the Secretary under this section to grow, process, or test hemp crops or hemp products shall allow the Secretary to inspect hemp crops, processing sites, or laboratories registered under the State Hemp Program. The Secretary shall retain tests and inspection information collected under this section for the purposes of research of the growth and cultivation of industrial hemp.

(f) The name and general location of a person registered under this section shall be available for inspection and copying under the Public Records Act, provided that all records produced or acquired by the Agency of Agriculture, Food and Markets related to the location of parcels where hemp will be grown, including coordinates, maps, and parcel

identifiers, shall be confidential and shall not be disclosed for inspection and copying under the Public Records Act. (Added 2007, No. 212 (Adj. Sess.), § 2; amended 2013, No. 84, § 1; 2017, No. 143 (Adj. Sess.), § 5; 2019, No. 44, § 1, eff. May 30, 2019.)

**§ 565. Repealed. 2013, No. 84, § 1.**

**§ 566. Rulemaking authority**

(a) The Secretary may adopt rules to provide for the implementation of this chapter and the Program authorized under this chapter, which may include rules to:

(1) require hemp to be tested during growth for tetrahydrocannabinol levels;

(2) authorize or specify the method or methods of testing hemp, including, where appropriate, the ratio of cannabidiol to tetrahydrocannabinol levels or a taxonomic determination using genetic testing;

(3) require inspection and supervision of hemp during sowing, growing season, harvest, storage, and processing;

(4) require labels or label information for hemp products in order to provide consumers with product content or source information or to conform with federal requirements;

(5) establish certification requirements for hemp seed sold or distributed in the State; and

(6) require disclosure or labeling of the amount of cannabinoid known to be present in hemp seed sold or distributed in the State.

(b) The Secretary shall adopt rules establishing how the Agency of Agriculture, Food and Markets will conduct research within the Program for industrial hemp.

(c) The Secretary shall adopt rules establishing requirements for the registration of processors of hemp and hemp-infused products. (Added 2007, No. 212 (Adj. Sess.), § 2; amended 2013, No. 84, § 1; 2017, No. 143 (Adj. Sess.), § 5; 2019, No. 44, § 1, eff. May 30, 2019; 2019, No. 129 (Adj. Sess.), § 27.)

**§ 567. Agency of Agriculture, Food and Markets; testing**

(a) The Agency of Agriculture, Food and Markets shall establish a cannabis quality control program for the following purposes:

(1) to develop potency and contaminant testing protocols for hemp, hemp-infused products, cannabis, and cannabis products as defined in 7 V.S.A. § 831;

(2) to verify cannabinoid label guarantees of hemp, hemp-infused products, cannabis, and cannabis products as defined in 7 V.S.A. § 831;

(3) to test for pesticides, solvents, heavy metals, mycotoxins, and bacterial and fungal contaminants in hemp, hemp-infused products, cannabis, and cannabis products as defined in 7 V.S.A. § 831; and

(4) to certify testing laboratories that can offer the services in subdivisions (2) and (3) of this subsection.

(b) For purposes of this section, a laboratory operating under a dispensary registration pursuant to 18 V.S.A. chapter 86 that offers the services in subdivisions (2) and (3) of subsection (a) of this section on January 1, 2021 shall be deemed certified by the Agency.

(c) The cost of a test of a product produced at a registered dispensary and submitted to the Agency for the purpose of compliance testing to enforce the provisions of 18 V.S.A. chapter 86 shall be paid by the Department of Public Safety from the registration fee fund provided in 18 V.S.A. § 4474a. (Added 2017, No. 143 (Adj. Sess.), § 7; amended 2019, No. 164 (Adj. Sess.), § 29, eff. Oct. 7, 2020.)

### **§ 568. Test results; enforcement**

(a) If the Secretary or a dispensary registered under 18 V.S.A. chapter 86 tests a hemp crop and the hemp has a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis, the person registered with the Secretary as growing the hemp crop shall:

(1) enter into an agreement with a dispensary registered under 18 V.S.A. chapter 86 for the separation of the delta-9 tetrahydrocannabinol from the hemp crop, return of the hemp crop to the person registered with the Secretary, and retention of the separated delta-9 tetrahydrocannabinol by the dispensary;

(2) sell the hemp crop to a dispensary registered under 18 V.S.A. chapter 86; or

(3) arrange for the Secretary to destroy or order the destruction of the hemp crop.

(b) To enforce the provisions of this chapter, the Secretary, upon presenting appropriate credentials, may conduct one or more of the following:

(1) Enter upon any premises where hemp is grown or processed and inspect premises, machinery, equipment and facilities, any crop during any growth phase, or any hemp product or hemp-infused product during processing or storage. Inspection under this section may include the taking of samples, inspection of records, and inspection of equipment or vehicles used in the growing, processing, or transport of hemp crops, hemp products, or hemp-infused products.

(2) Inspect any retail location offering hemp products or hemp-infused products. Inspection under this section may include the taking of samples of such products.

(3) Issue and enforce a written or printed "stop sale" order to the owner or custodian of any hemp crop, hemp product, or hemp-infused product subject to the requirements of this chapter or rules adopted under this chapter that the Secretary finds is in violation of any of the provisions of this chapter or rules adopted under this chapter. An order may prohibit further sale, processing, and movement of the hemp crop, hemp product, or hemp-infused product until the Secretary has approved and issued a release from the "stop sale" order.

(c) A crop or product confirmed by the Secretary to meet the definition of hemp under State or federal law may be sold or transferred in interstate commerce to the extent authorized by federal law. (Added 2017, No. 143 (Adj. Sess.), § 7; 2019, No. 44, § 1, eff. May 30, 2019.)

### **§ 569. Administrative penalties**

(a) Except for violations set forth under subsection (b) of this section, the Secretary may assess an administrative penalty, not to exceed \$1,000.00 per violation, for any violation of this chapter or rules adopted under this chapter, including:

(1) failure to provide the location of the land on which the grower grows hemp crops or the processor processes hemp crops into hemp products or hemp-infused products; or

(2) failing to obtain a registration in accordance with section 570 of this title.

(b) The Secretary may assess an administrative penalty, not to exceed \$5,000.00 per violation in any case in which the Secretary determines that a grower or processor:

(1) failed to follow a corrective action plan to correct a negligent violation;

(2) has grown or processed hemp in violation of the requirements of this chapter or the rules adopted under this chapter three times in a five-year period; or

(3) has produced hemp in violation of the requirements of this chapter or the rules adopted under this chapter with a culpable mental state greater than negligence.

(c) In determining the amount of the penalty assessed under this section, the Secretary may give consideration to the appropriateness of the penalty with respect to the size of the business being assessed, the gravity of the violation, the good faith of the person alleged to be in violation, and the overall compliance history of the person alleged to be in violation.

(d) The Secretary shall use the following procedure in assessing penalties:

(1) the Secretary shall issue a written notice of violation setting forth facts that would establish probable cause that a violation of this chapter or the rules adopted under this chapter has occurred;

(2) the notice required under subdivision (1) of this subsection shall comply with all of the following:

(A) The notice shall be served by personal service or by certified mail, return receipt requested.

(B) The notice shall advise the recipient of the right to a hearing. If a hearing is requested, the hearing shall be conducted pursuant to 3 V.S.A. chapter 25.

(C) The notice shall state the proposed penalty and shall advise the recipient that, if no hearing is requested, the decision of the Secretary shall become final and a penalty shall be imposed.

(D) The notice shall advise the recipient that they shall have 15 days from the date on which notice is received to request a hearing.

(e) Any party aggrieved by a final decision of the Secretary may appeal to a Superior Court within 30 days of the final decision of the Secretary. The Secretary may enforce a final administrative penalty by filing a civil collection action in any District or Superior Court. (Added 2019, No. 44, § 1, eff. May 30, 2019.)

### **§ 570. Registration fees**

(a) A person applying for a registration or renewal under section 564 of this title annually shall pay the following fees:

(1) for an application to grow less than 0.5 acres of hemp for personal use: \$25.00;

(2) for an application or renewal of registration to grow or process hemp seed for food oil production, grain crop, fiber, or textile: \$100.00;

(3) except as provided for in subdivision (4) of this subsection, for an application or renewal of registration to grow, process, or grow and process hemp commercially for floral material production, viable seed, or cannabinoids, including cannabidiolic acid (CBDA), cannabidiol (CBD), cannabiol (CBN), cannabigerol (CBG), cannabichromene (CBC), or tetrahydrocannabivarin (THCV), the following fee based on the greater of the number of acres planted or the weight of hemp or viable seed processed:

Acres of Hemp Grown or Fee

Pounds of Hemp Processed or

Viable Seed Cultivated

Annually for Floral Material or

Cannabinoids

Less than 0.5 acres or less than 500 pounds \$100.00

0.5 to 9.9 acres or less than 10,000 pounds \$500.00

10 to 50 acres or less than 50,000 pounds \$1,000.00

Greater than 50 acres or greater than

50,000 pounds \$3,000.00

(4) for an application or renewal of registration to operate exclusively within an indoor facility in order to grow, process, or grow and process hemp commercially for floral material production, viable seed, or cannabinoids, including cannabidiolic acid (CBDA), cannabidiol (CBD), cannabiol (CBN), cannabigerol (CBG), cannabichromene (CBC), or tetrahydrocannabivarin (THCV), the following fee based on the size of the indoor facility:

(A) for a facility with an area of 500 square feet or less: \$1,000.00; and

(B) for a facility with an area greater than 500 square feet: \$2,000.00.

(5) for an application or renewal of registration as a laboratory certified to conduct testing of hemp and hemp products as part of the Agency's cannabis control program: \$1,500.00.

(b) A person registered to grow, process, or grow and process hemp for floral material production, viable seed, or cannabinoids shall not grow more acres of hemp per year than the amount identified in a registration without first notifying the Secretary and paying an additional registration fee if necessary under subsection (a) of this section.

(c) The registration fees collected under this section shall be deposited in the special fund created by subsection 364(e) of this title and shall be used for the administration of the requirements of this chapter. (Added 2019, No. 44, § 1, eff. May 30, 2019.)

### **§ 571. Hemp seed; labeling; standards**

(a) A person shall not sell, offer for sale, expose for sale, transport for sale, or distribute in the State hemp seed that:

(1) is not labeled in accordance with the requirements of this section or rules adopted by the Secretary;

(2) fails to meet germination standards, feminized seed claims, or other claims made on the label or in an advertisement or provides false or misleading information on a label or in an advertisement;

(3) fails to meet certification standards if standards have been adopted by the Secretary by rule; or

(4) consists of or contains prohibited noxious weed seeds, as that term is defined in section 641 of this title.

(b) Hemp seed sold, offered for sale, exposed for sale, transported for sale, or distributed in the State shall have a label attached to the bag or container in which the seed is sold, offered for sale, exposed for sale, transported for sale, or distributed. The label shall contain the following information:

(1) the name and kind of each hemp seed present in excess of five percent of the whole percentage by weight;

(2) the origin state or foreign country of the hemp seed;

(3) whether the hemp seed was certified by a state or foreign country;

(4) the percentage by weight of any weed seeds in the container or bag;

(5) the percentage by weight of inert matter in the container or bag;

(6) the percentage of feminized seed;

(7) the percentage of germination of the seed;

(8) the date the seed was packed or packaged; and



(9) the name and address of the person who labeled the hemp seed or who sells, offers for sale, exposes for sale, or distributes the hemp seed in the State.

(c) The Secretary may issue a stop sale order for the violation of the requirements of this section or rules adopted by the Secretary under this chapter. The sale, processing, and movement of any seed subject to a stop sale order is prohibited until the Secretary issues a release from the stop sale order.

(d) A violation of this section or rules adopted by the Secretary under this chapter shall be subject to an administrative penalty under section 569 of this title.

(e)(1) A person injured or damaged by a violation of this section or a rule adopted by the Secretary under this chapter regarding the sale, offer for sale, exposure for sale, transport for sale, or distribution of hemp seed in the State may bring an action for equitable relief or damages arising from the violation.

(2) The cause of action authorized under this section is in addition to any common law or statutory remedies otherwise available and does not amend or conflict with the powers and authority of the Agency of Agriculture, Food and Markets.

(f) The Secretary may conduct inspections and otherwise enforce requirements for the sale or distribution of hemp seed established under this chapter according to the Secretary's general authority to regulate seed under chapter 35 of this title, provided that the Secretary shall issue any penalty for the violation of the requirements of this chapter under the provisions of this chapter or rules adopted under this chapter. (Added 2019, No. 129 (Adj. Sess.), § 26.)

Vermont Hemp Rules

**Section 1**     Authority and Purpose

- 1.1 The Secretary of the Agency of Agriculture, Food and Markets (Agency) adopts the Vermont Hemp Rules pursuant to 6 V.S.A. Chapter 34. Chapter 34 authorizes the Secretary to adopt rules to implement the chapter and the State Hemp Program (Vermont Hemp Program). The Secretary is required to adopt rules establishing how the Agency will conduct research and establishing requirements for the registration of processors of hemp and hemp-infused products.
- 1.2 The Secretary establishes the Vermont Hemp Program (Hemp Program) to conduct research and regulate the growing, processing, testing, and marketing of industrial hemp and hemp products in the State.
- 1.3 The Agency expects to continue operating Vermont’s pilot program pursuant to the 2014 federal Farm Bill for the 2020 growing season. After the General Assembly updated Chapter 34 following enactment of the Agriculture Improvement Act of 2018, Pub. L. No. 115-334, the United States Department of Agriculture (USDA) issued an Interim Final Rule (IFR) in late 2019 that makes important distinctions from the pilot program. USDA informed the Agency that it could continue to operate its pilot program during the 2020 growing season, and the Agency plans to do so. As federal law develops and evolves, the Agency continues to evaluate it, continues to propose pragmatic changes, and will continue to evaluate how hemp may be grown, produced, and regulated in the State of Vermont. Compliance with these Rules does not guarantee compliance with other legal requirements, and each registrant is personally responsible for complying with all applicable state and federal laws.
- 1.4 The Agency proposed legislation in 2020 to amend the current state statutory requirement that Vermont’s hemp crop comply with the provisions of section 10113 of the Agriculture Improvement Act of 2018, Pub. L. No. 115-334. If that pending proposal is passed, the Agency will continue its pilot program under the 2014 federal Farm Bill and the definition of “acceptable potency level” in section 3.1 will apply for the term the General Assembly authorizes. If the General Assembly does not authorize continuation of the pilot project, the Agency will not apply the “acceptable potency level” in section 3.1. Instead, the Agency will apply the potency level required by state statute. Absent legislative change, the following definition will replace the section 3.1 definition: “acceptable potency level means a hemp crop with the federally defined tetrahydrocannabinol concentration level of hemp.” At all times subsequent to the 2020 legislative session, the Agency will explicitly identify the acceptable potency level that applies at that time.

**Section 2**     Applicability

- 2.1. A person who plans to or grows, processes, or tests hemp or hemp products in the State:
  - (a) must register annually with the Vermont Hemp Program;
  - (b) must register all hemp cultivation, drying, storage areas, and/or processing sites with the Hemp Program; and
  - (c) must comply with the Vermont Hemp Rules (Rules).

- 2.2. A person is not required to register with the Hemp Program to sell hemp products or hemp-infused products in Vermont.

**Section 3**      Definitions

- 3.1. Acceptable potency level means a hemp crop that has a delta-9 tetrahydrocannabinol concentration of 0.3 percent or less on a dry weight basis. This initial requirement accords with the federal 2014 Farm Bill. As an additional policy limitation implemented to protect public safety, the Agency also requires that the total theoretical tetrahydrocannabinol concentration not exceed one percent on a dry weight basis. The acceptable potency level may change as the law develops following the 2020 growing season.
- 3.2. Agency means the Vermont Agency of Agriculture, Food and Markets.
- 3.3. Biomass means harvested hemp including the stalks and leaves and may include flowers/buds and/or seeds.
- 3.4. Broad spectrum means a concentrate extracted from hemp containing cannabinoids except THC which has been removed.
- 3.5. Cannabidiol or CBD is one of the naturally occurring cannabinoids found in the Cannabis sativa L. plant.
- 3.6. Cannabinoid means any of a group of closely related chemical compounds which include THC (tetrahydrocannabinol), THCA (tetrahydrocannabinolic acid), CBD (cannabidiol), CBDA (cannabidiolic acid), CBN (cannabinol), CBG (cannabigerol), CBC (cannabichromene), CBL (cannabicyclol), CBV (cannabivarin), THCV (tetrahydrocannabivarin), CBDV (cannabidivarin), CBCV (cannabichromevarin), CBGV (cannabigerovarin), CBGM (cannabigerol monomethyl ether), CBE (cannabielsoin), CBT (cannabicitran), and other active constituents that are naturally occurring in the Cannabis sativa L. plant.
- 3.7. Cannabinoid content refers to the test-verified levels of specific cannabinoids in a harvest or process lot.
- 3.8. Certificate of analysis means a certified laboratory's report describing its analytical testing and results.
- 3.9. Certified laboratory means a laboratory certified by the Agency under 6 V.S.A. § 567.
- 3.10. Consumable means a hemp product or hemp-infused product intended for human consumption.
- 3.11. Consumption means human ingestion, inhaling, or topically applying to skin or hair.
- 3.12. Contaminant means a pesticide, solvent, heavy metal, mycotoxin, foreign material, bacterial and/or fungal impurity introduced through cultivation or processing.

- 3.13. Crop means hemp grown following proper registration through the Agency.
- 3.14. Cultivar means a plant variety with known characteristics that has been grown and produced by humans.
- 3.15. Cultivation area means one (1) contiguous tract of land, indoor facility or greenhouse used to produce or intended to be used to produce hemp.
- 3.16. Delta-9 tetrahydrocannabinol, also referred to as “THC,” is the principal psychoactive cannabinoid found in the *Cannabis sativa* L. plant.
- 3.17. Distillate means a concentrate where a segment of cannabinoids from an initial extraction are selectively concentrated through heating and cooling, with all impurities removed.
- 3.18. Drying or storage area means any area where hemp is dried or stored. A drying or storage area may include areas where harvested hemp is confined, housed, or stored, whether inside or outside of any structure.
- 3.19. Dry weight means the weight of plant material with no greater than 13% moisture content.
- 3.20. Food means articles of food, drink, confectionery, or condiment for human consumption, whether simple, mixed, or compound, and all substances and ingredients used in the preparation thereof.
- 3.21. Full spectrum means a hemp product or hemp-infused product that is:
- (a) derived from a hemp concentrate;
  - (b) contains cannabinoids, aromatics, essential vitamins and minerals, fatty acids, protein, chlorophyll, flavonoids, and terpenes; and
  - (c) has not been reformulated or has not had cannabinoid isolates or distillates added to it.
- 3.22. Grow may be used interchangeably with the word “produce” or “cultivate” and means:
- (a) planting, cultivating, harvesting, or drying hemp, and/or
  - (b) selling, storing or transporting hemp.
- 3.23. Grower means a person who is registered with the Agency to produce hemp crops.
- 3.24. Handle means to possess hemp crops for any period of time on premises owned, leased, operated, or controlled by a registrant. “Handle” also means to possess hemp crops for any period of time other than during transport from a registrant’s premises to another registrant’s premises or out-of-state recipient. “Handle” does not mean possession of hemp products or hemp-infused products.
- 3.25. Harvest lot means a grower’s harvested hemp produced during a single growing season in a contiguous area containing the same cultivar or variety.

- 3.26. Harvest lot number means a unique numerical identifier that begins with the last four digits of a grower's registration number, followed by the year of harvest, and a unique number to identify the harvest lot.
- 3.27. Hemp means the plant *Cannabis sativa* L. and any part of the plant, including the seeds and all derivatives, extracts, cannabinoids, acids, salts, isomers, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis. The cultivation of hemp shall be subject to and comply with the required agricultural practices adopted pursuant to 6 V.S.A. § 4810.
- 3.28. Hemp concentrate means a process intermediate obtained by separating cannabinoids from a hemp crop using a mechanical, chemical or other process which consists primarily of cannabinoids. Hemp concentrate is not a hemp product or hemp-infused product as defined by these rules.
- 3.29. Hemp crop means a standing or harvested crop or biomass. Use of "hemp crop" or "hemp crops" includes both the singular and plural usages whenever appropriate and shall be read to be inclusive of both forms whenever possible.
- 3.30. Hemp product or Hemp-infused product means all product that satisfies the required tetrahydrocannabinol concentration level for hemp, derived from, or made by, processing hemp plants and/or plant parts, that are prepared in a form available for commercial sale, including cosmetics, personal care products, food intended for animal or human consumption, cloth, cordage, fiber, fuel, paint, paper, construction materials, plastics, and any product containing one or more hemp-derived cannabinoids, such as cannabidiol.
- 3.31. Ingredient means any substance that is used in the manufacture of a hemp product or hemp-infused product that is intended to be present in the finished process lot.
- 3.32. Isolate means a concentrate that is more than 95 percent comprised of a single cannabinoid compound created by a chemical process.
- 3.33. Label Guarantee is the declared minimum or maximum amount of individual cannabinoid content in a hemp product or hemp-infused product.
- 3.34. Negligence means the failure to exercise the level of care that a reasonably prudent person would exercise in complying with Chapter 34 of Title 6 of Vermont law and these rules.
- 3.35. Person means:
- (a) an individual, sole proprietor, or any form of partnership, corporation, association, unincorporated organization, trust, or other legal or commercial entity, including a joint venture or affiliated ownership, or
  - (b) any individual or entity affiliated with any other individual or entity for profit, consideration, or any other beneficial interest derived from agricultural management, including lessors and lessees.

- 3.36. Personal use means cultivating hemp on less than 0.5 acres for an individual's own use, when no hemp crop, hemp product, or hemp-infused product enters commerce from cultivation areas registered for this purpose.
- 3.37. Process means a processor's storing, drying, trimming, handling, compounding, and/or conversion of hemp crops into hemp products or hemp-infused products. "Process" includes processing hemp from single or multiple growers, and transporting, aggregating, or packaging hemp. "Process" also includes manufacturing hemp products or hemp-infused products from hemp concentrate.
- 3.38. Processor means a person who is registered with the Agency to process hemp crops. A retail establishment selling hemp products or hemp-infused products is not a processor.
- 3.39. Process lot means: any amount of hemp concentrate, hemp product or hemp-infused product of the same type, processed at the same time using the same ingredients and same standard operating procedures.
- 3.40. Process lot number means a unique numerical identifier that begins with the last five digits of a Processor's registration number, followed by the year of processing, and a unique number to identify the process lot.
- 3.41. Processing site means a single parcel of land and all infrastructure on that parcel used for the processing or intended processing of hemp.
- 3.42. "Produced in Vermont" means hemp products or hemp-infused products that are derived from hemp crops exclusively grown and processed in Vermont, and the products are formulated in Vermont in compliance with these Rules.
- 3.43. Registrant means a person registered with the Hemp Program.
- 3.44. Tetrahydrocannabinolic acid (THCA) is the precursor of delta-9 THC.
- 3.45. Total theoretical tetrahydrocannabinol content (or total theoretical THC) is the maximum amount of possible delta-9 tetrahydrocannabinol in a hemp crop if total conversion were to occur. The calculated amount is determined as follows:

the sum of the concentration of delta-9 tetrahydrocannabinol added to the amount of tetrahydrocannabinolic acid after it is multiplied by 0.877 on a dry weight basis and reported to two significant figures. The mathematical equation follows:

$$\text{Total theoretical THC} = ([\text{delta 9 THC}] + ([\text{THCA}] * 0.877))$$

- 3.46. Whole plant means an extract that contains water and lipid soluble plant compounds.

#### **Section 4**      Program Registration Requirements

- 4.1. To register as a Grower or Processor with the Hemp Program, a person must apply by submitting the Agency's completed application form, the required documentation, and registration fee (collectively, the "application"). The person's application must include the location including GPS coordinates of all cultivation areas, drying or storage areas, and/or processing sites where the person plans to grow or process hemp. A person's cultivation, drying, storage areas, and/or processing sites are registered with the Hemp Program when the person receives the Agency's written notice of registration.
- (a) To process an application, the Agency may request additional documents to verify the information provided in the submitted application.
  - (b) The application is not complete unless and until all requested documents are provided and the registration fee is received. The Agency may reject any incomplete application. A person whose application is rejected as incomplete may reapply for registration at any time.
  - (c) A person who materially falsifies any information in an application shall be ineligible to participate in the Hemp Program. The duration of the ineligibility shall be at the Secretary's discretion after evaluating the applicant's conduct. If the applicant is permitted to reapply, the applicant must exclusively provide accurate information.
  - (d) To register multiple cultivation areas or processing sites, a person may submit a single application identifying all cultivation areas and/or processing sites associated with that application that includes all appropriate registration fee(s).
  - (e) Public information provided to the Agency as part of a person's application may be publicly disclosed consistent with the Public Records Act, and all information may be provided to law enforcement agencies without notice to the person.
- 4.2. Any change to registration information must be approved by the Agency before it may become effective. Registrations may not be sold or transferred by a person to any other person.
- 4.3. Registrations expire on December 31 of each year. A new application for registration must be submitted for each calendar year.
- 4.4. A person holding a valid registration on the date these Rules are adopted or amended will be considered registered for the remainder of the calendar year in which the Rules are adopted or amended.
- 4.5. A registrant shall exclusively operate within the terms of the specific type of registration issued and shall not exceed the scope of that authorized activity. As examples, a registrant licensed to test hemp shall not also grow or process it, and a registrant authorized to grow hemp for personal use shall not use it for anything other than personal use.

**Section 5**      Growing, Transferring and Selling, Recordkeeping, and Reporting Requirements for Growers

- 5.1. A grower is responsible for demonstrating compliance with the acceptable potency level for all hemp crops.

- 5.2. A grower shall only grow hemp crops in registered cultivation areas and only handle hemp crops in registered drying and storage area.
- 5.3. When a grower transfers or sells hemp crop, clones, or plants, the grower must:
- (a) provide a copy of a certificate of analysis for the cultivar being transferred or sold; and
  - (b) offer a list of any pesticides used in the cultivation of a hemp crop, clones, or plants.
- 5.4. A grower must assign each harvest lot a harvest lot number.
- 5.5. For a minimum of three (3) years from harvest date, a grower shall maintain the following records for each harvest lot organized by harvest lot number:
- (a) Records of all purchases of hemp seed, starts, and clones, which shall include:
    - i. the date of purchase;
    - ii. the cultivar name;
    - iii. the name and address of the seller and the Agency-issued license number for each seed dealer or nursery dealer;
    - iv. a certificate of analysis by a certified laboratory demonstrating the cultivar's compliance with the required acceptable potency level; and
    - v. a copy of the map submitted during the registration process that shows the cultivation area where the cultivar was grown.
  - (b) Records of all hemp crop transfers to each in-state and/or out-of-state processor, which shall include:
    - i. the date(s) of harvest and transfer;
    - ii. the name and address of each processor and its registration number; and
    - iii. an estimate of the dry weight of hemp transferred measured in pounds.
  - (c) Copies of all sampling and testing records to demonstrate compliance with Vermont Pre-Harvest Sampling Protocols, and the testing required by these Rules including all certificates of analyses performed by certified laboratories.
- 5.6. A grower shall make all records available to the Agency for inspection upon request.
- 5.7. A grower shall annually submit a report to the Agency by December 1 detailing the total acreage of hemp planted, harvested, and if applicable, disposed or destroyed. This information shall be publicly available upon request provided it is presented in a form which does not disclose the identity of individual persons, households, or businesses from whom the information was obtained, or whose characteristics, activities, or products the information is about. *See 6 V.S.A. § 61.*

**Section 6**      Processing, Transferring and Selling, Recordkeeping, and Reporting Requirements for Processors

- 6.1. A processor is responsible for demonstrating compliance with the acceptable potency level for hemp products and/or hemp-infused products offered for sale or transfer.
- 6.2. A processor shall only use lipid, ethanol, or carbon dioxide (CO<sub>2</sub>) botanical extraction methods, solvent free mechanical extraction methods, or other extraction methods which the



Agency pre-approves in writing. All other methods of botanical extraction, including use of butane, propane, hexane and other hydrocarbons is prohibited.

- 6.3. A processor shall not use synthetic cannabinoids in the production of any hemp product or hemp-infused product.
- 6.4. A processor shall only process hemp crops at registered processing sites.
- 6.5. A processor must notify the Agency in writing of any processing site closure within 10 business days.
- 6.6. A processor, at the time of processing, must assign a process lot number to each lot of hemp concentrate, hemp product, and/or hemp-infused product extracted or formulated by the processor.
- 6.7. A processor shall only transfer or sell hemp concentrate for the purpose of reformulation into hemp products or hemp-infused products to:
  - (a) the grower of the hemp crop if the grower is also a processor, or
  - (b) to another processor.
- 6.8. For a minimum of three (3) years from the date of processing a process lot, a processor shall maintain the following records for each extracted hemp concentrate organized by process lot number:
  - (a) Records of all hemp crop(s) received by harvest lot number including:
    - i. The name, address, and registration number of the grower for any amount of hemp crop transferred to the processor;
    - ii. Date(s) each hemp crop was received;
    - iii. Amount of hemp measured in pounds as received;
    - iv. Copies of sampling and testing records as required by Vermont Pre-Harvest Sampling Protocols and these Rules; and
    - v. Certificates of analyses from certified laboratories.
  - (b) Records of hemp crops the processor receives from out-of-state, including:
    - i. The name and address of the out-of-state grower for any amount of hemp crop received;
    - ii. The out-of-state grower registration number in the respective state;
    - iii. Date the hemp crop was received;
    - iv. Amount of hemp crop measured in pounds as received; and
    - v. Certificates of analyses for hemp crop potency.
  - (c) Certificates of analyses from certified laboratories organized by process lot number and detailing cannabinoid content for any hemp concentrate a processor produced.
- 6.9. For a minimum of three (3) years from the date of processing a process lot, a processor that formulates hemp products or hemp-infused products and offers a label guarantee, shall maintain the following records organized by hemp product or hemp-infused product process lot number:
  - (a) Copies of records from harvest lots as outlined in Section 6.8 that are used to formulate each product;
  - (b) The standard operating procedure for formulating each product;

- (c) Certificates of analyses from certified laboratories demonstrating the cannabinoid content of each product; and
  - (d) A copy of each product's label, as required in Section 11.
- 6.10. A processor of hemp products or hemp-infused products that offers no label guarantee of any specific quantity of cannabinoids in the product shall be required to maintain records of formulation, including certificates of analyses for the hemp concentrate, used in product formulation, but shall not be required to maintain records of certificates of analyses for every process lot of the finished product.
- 6.11. A processor shall make these records available to the Agency for inspection upon request.
- 6.12. When requested and in a format described by the Agency during the annual registration process, a processor shall provide the total dry weight (measured in pounds) of the hemp crop handled in the preceding year. This information shall be publicly available upon request provided it is presented in a form which does not disclose the identity of individual persons, households, or businesses from whom the information was obtained, or whose characteristics, activities, or products the information is about. See 6 V.S.A. § 61.

**Section 7**     Testing Requirements for Growers

- 7.1. A grower must test hemp crops for compliance with these Rules.
- 7.2. A grower must test each harvest lot for potency levels to be reported on a dry weight basis, including reporting total theoretical tetrahydrocannabinol concentration.
- 7.3. A grower must test all harvest lots for the following substances:
- (a) target pesticides established in the Cannabis Quality Control program, unless it is a certified organic crop; and
  - (b) heavy metals when the property was previously used for orchard crops or a land use other than farming as defined in the Required Agricultural Practices Rule, unless a recent soil test demonstrates that the heavy metals are within the action limits for soils as authorized in the Cannabis Quality Control Program.
  - (c) testing for other potential contaminants when the Agency of Natural Resources has approved the property for biosolid application.
- 7.4. All hemp crop testing required by these Rules shall be conducted by a certified laboratory. This requirement excludes soil tests for heavy metals.
- 7.5. A harvest lot complies with the acceptable potency level and contaminant action limits under these Rules when a certified laboratory's certificate of analysis demonstrates as follows:
- (a) a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis,
  - (b) a total theoretical THC concentration that does not exceed one percent, and
  - (c) contaminant levels below the action limits for pesticides and heavy metals established in the Cannabis Quality Control program.

7.6. When a harvest lot does not satisfy the acceptable potency level the grower must dispose of or destroy the hemp crop in accordance with Section 14.

7.7. When a harvest lot does not satisfy the heavy metal and/or pesticide action limits established in the Cannabis Quality Control Program the grower must either mitigate or destroy the harvest lot. The harvest lot may not be sold as trim flower to the consumer.

**Section 8**     Testing Requirements for Processors

8.1. A processor must ensure that all hemp products and hemp-infused products comply with these Rules.

8.2. A processor must have all process lots tested according to Table 1 for potency, water activity, pesticides, heavy metals, mycotoxins, and bacterial and fungal contaminants by sample type.

Table 1, Testing Requirements

<b>Sample type</b>	<b>potency</b>	<b>moisture or water activity</b>	<b>mycotoxins, bacterial and fungal</b>	<b>heavy metals</b>	<b>pesticides</b>	<b>Residual solvents</b>
<b>Plant material</b>						
Trim flower	Note 1	Each process lot	Each process lot	Note 1	Note 1	N/A
<b>Concentrates</b>						
Liquids	Each process lot		Each process lot	Each process lot	Each process lot	Note 3
Solids	Each process lot		Each process lot	Each process lot	Each process lot	Note 3
<b>Infused products</b>						
Liquid-infused products (tinctures, water based)	Note 4		Note 2	Note 1 or 2	Note 2	N/A
Solid-infused products, edibles, tablets	Note 4		Note 2	Note 1 or 2	Note 2	N/A

Note 1: Testing completed for harvest lot is sufficient for showing compliance.

Note 2: Testing completed for trim flower or hemp concentrate is sufficient for showing compliance.

Note 3: Residual solvents are tested only if solvent-based extraction techniques are used.

Note 4: Please apply Section 8.3 (a) for potency.

- 8.3. A hemp product or hemp-infused product process lot complies with these Rules when the following terms apply:
- (a) a certified laboratory's certificate of analysis demonstrates that the product meets the acceptable potency level or the processor's formulation demonstrates compliance with the acceptable potency level, and
  - (b) a certified laboratory's certificate of analysis demonstrates compliance with Section 8.2 and that contaminant levels are below action limits for pesticides, heavy metals, mycotoxins, and bacterial and fungal contaminants as established in the Cannabis Quality Control program.
- 8.4. When a hemp product or hemp-infused product does not meet the acceptable potency level and/or the required action limits, the product must be disposed of or destroyed in accordance with Section 14.

**Section 9**     Reporting and Disposal, Destruction, or Mitigation Requirements

- 9.1. If a harvest lot exceeds the acceptable potency level or the required action limits in the Cannabis Quality Control Program, then the following conditions apply:
- (a) The certified laboratory shall send the certificate of analysis containing the result and the testing request form within 24 hours of completing the harvest lot test to:
    - i. the Agency by certified mail or electronically to an individual identified by the Agency, and
    - ii. the registrant who requested the testing.
  - (b) The registrant, within 48 hours of receiving the certificate of analysis, shall provide the following information to the Agency by certified or electronic mail (to an Agency-identified individual):
    - i. a copy of the certificate of analysis for the harvest lot;
    - ii. a copy of the map used during the registration process depicting the harvest lot cultivation area; and
    - iii. the proposed action plan for disposal, destruction, or mitigation.
  - (c) Failure to notify the Agency within 48 hours as required may result in enforcement under Vermont law.
  - (d) A harvest lot exceeding the acceptable potency level shall not be processed into hemp concentrate or used to formulate hemp products or hemp-infused products. Concentrate, products or infused products created from such a harvest lot may result in the disposal or destruction of those concentrates or products.
- 9.2. The proposed action plan for disposal and destruction of harvest lots or process lots shall be reviewed and approved by the Agency prior to implementation.

- 9.3. The registrant is responsible for the full cost of disposal, destruction, and/or mitigation.

**Section 10** Requirements for Handling Hemp Crops, Hemp Products and Hemp-Infused Products

- 10.1. Registrants shall only handle hemp crops that have an acceptable potency level.
- 10.2. Registrants shall not formulate or sell a hemp product or hemp-infused product that exceeds the acceptable potency level.

**Section 11** Requirements for Labeling Hemp Products and Hemp-infused Products

- 11.1. All guaranteed hemp products or hemp-infused products produced in Vermont must be labeled and traceable to a certificate of analysis for all cannabinoid content label guarantees.
- 11.2. Registrants must label consumable hemp products and hemp-infused products in accordance with this section.
- 11.3. All label claims using the term “whole plant,” “isolate,” “full spectrum,” “broad spectrum,” and/or “distillate” shall comply with the applicable definition contained in these rules.
- 11.4. All labels for consumable hemp products or hemp-infused products grown or processed in Vermont must contain the following information:
- (a) The name and principal mailing address of the processor of the hemp product or hemp-infused product;
  - (b) A statement that the product contains ingredients that are derived from “hemp;”
  - (c) An accurate statement of the quantity of the content in weight, measure, or numerical count;
  - (d) When offering a guarantee, the guaranteed amount of any listed cannabinoid contained in the product by serving size measured in milligrams, milliliters, or grams;
  - (e) A statement that the product contains THC, if applicable; and
  - (f) A process lot number.
- 11.5. If a product is sold as a dietary supplement and in compliance with federal Food and Drug Administration manufacturing standards and label requirements, those label requirements supersede this Rule’s Section 11.4 (a)-(f) label requirements.

**Section 12** Vermont Hemp Products and Hemp-Infused Products

- 12.1. The Secretary establishes and adopts the Vermont Hemp brand under its authority in 6 V.S.A. Chapter 21.
- 12.2. Vermont Hemp is a hemp crop, hemp product, or hemp-infused product that satisfies the following standards and is certified by the Agency:
  - (a) Vermont Hemp is produced in Vermont as defined in Section 3 by registrants of the Vermont Hemp Program;
  - (b) Vermont Hemp is a hemp crop, hemp product, or hemp-infused product exclusively grown and processed in Vermont by registrants that demonstrate compliance with all requirements enumerated by the Secretary;
  - (c) Vermont Hemp is tested by a certified laboratory and proven to be compliant with the acceptable potency level and contaminant action levels; and
  - (d) Vermont Hemp is compliant with the Vermont Hemp Program's labeling requirements in Section 11.
- 12.3. Any registrant that wishes to use the Vermont Hemp brand must annually apply for certification using Agency-supplied forms and must meet all Agency requirements.

**Section 13** Inspection, Research and Record Reviews

- 13.1. The Agency shall conduct annual registrant inspections, which may or may not be at random, to ensure compliance with these Rules.
- 13.2. The Agency may inspect a registrant's premises, machinery, equipment, facilities, any crop during any growth phase, and/or any hemp product or hemp-infused product during processing or storage. The inspection may include collecting samples, taking photographs and/or video, talking to registrants and/or witnesses, and/or inspecting records. The inspection may also include inspecting equipment and/or vehicles used for growing, processing or transporting hemp crops, hemp products, and/or hemp-infused products, and taking any other reasonable measure to evaluate compliance with these Rules.
- 13.3. The Agency may inspect any retail location offering hemp products or hemp-infused products. This inspection may include taking samples of such products.
- 13.4. The Agency may use any hemp crop samples to conduct genetic testing and/or research the potential of taxonomic determinations of hemp cultivars or varieties grown.

**Section 14**    Enforcement

14.1.    Violations.

- (a) If the Secretary determines that a registrant violated any provision of 6 V.S.A. Chapter 34 or these Rules, the Secretary may require corrective action, revoke the Agency’s registration, issue and enforce a stop sale order, take administrative enforcement action, refer a matter to the Attorney General for civil enforcement, and/or refer a matter to law enforcement for potential criminal enforcement.

Examples of violations that will, at minimum, require corrective action are as follows:

- i.    failure to provide a legal description of the land where hemp is produced;
  - ii.   failure to appropriately register with the Agency;
  - iii.   failure to produce Cannabis sativa L. that complies with the required acceptable potency level.
- (b) When instructed to correct a violation, the registrant shall:
    - i.    propose a written corrective action plan to the Agency within 10 days of receipt of any notice of violation. The plan shall also include a proposed date for completion of the correction action plan;
    - ii.   obtain written Agency approval for the corrective action plan once the plan is acceptable;
    - iii.   comply with the approved corrective action plan; and
    - iv.   report to the Secretary in writing every six months for the next two calendar years explaining how the registrant is complying with Chapter 34 and these Rules.
  - (c) A registrant that negligently produces Cannabis sativa L. with a delta-9 tetrahydrocannabinol concentration that exceeds the acceptable potency level shall arrange for the Secretary to destroy or order the destruction of the hemp crop.
  - (d) A person who negligently violates these Rules three times in a five-year period shall be ineligible to produce hemp for a period of five years beginning on the date of the third violation. The Secretary, for good cause shown, may choose to impose a different penalty.

14.2.    Other violations.

If the Secretary determines that a registrant intentionally, willfully, and/or knowingly violated Chapter 34 or these Rules, the Agency will take more significant enforcement action than if the registrant made a good faith effort to comply with the law and these Rules.

**Section 15**    Exemptions

- 15.1.    Sections 6, 7, 8, 9, and 11 of these Rules do not apply when the hemp product:

- (a) is seed or seed oil for consumption and considered “Generally Recognized as Safe” by the United States Food and Drug Administration; or
- (b) is not intended for consumption and will be used for fiber, building material, or animal bedding, and is not subject to the Secretary’s order of destruction or stop sale order.

**Section 16**    Severability

The provisions of this rule are severable. If any provision of this rule is invalid, or if any application of this rule to any person or circumstance is invalid, the invalidity shall not affect any other provisions or applications which can be given effect without the invalid provision or application.

**Section 17**    Effective Date

This rule shall become effective on its date of adoption.