

## Vermont Hemp Rules

### Section 1 Authority and Purpose

- 1.1 The Secretary of the Agency of Agriculture, Food and Markets (the Agency) adopts the Vermont Hemp Rules pursuant to 6 V.S.A. Chapter 34 and consistent with the Agriculture Improvement Act of 2018, Public L. No. 115-334. The intent of Chapter 34 is to establish policy and procedures for growing hemp 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. Chapter 34 provides that the Secretary may adopt rules to implement Chapter 34 and this program and that the Secretary must adopt rules establishing how the Agency will conduct research within this program and rules establishing requirements for registration of processors of hemp and hemp-infused products.
- 1.2 The Agency establishes the Vermont Hemp Program to research the growth, cultivation and marketing of hemp.

### Section 2 Applicability

2.1. Any person who plans to grow, cultivate, or process hemp in Vermont:

- (a) must register with the Vermont Hemp Program (the Hemp Program);
- (b) must register all cultivation, drying, and storage areas and processing sites that they plan to use to grow or process hemp with the Hemp Program; and
- (c) must comply with the Vermont Hemp Rules (the Rules).

2.2. A person does not need to register with the Hemp Program in order 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 THC concentration of 0.3 percent or less and a total theoretical tetrahydrocannabinol concentration of one percent or less.
- 3.2. Agency means the Vermont Agency of Agriculture, Food and Markets.
- 3.3. Broad spectrum means a concentrate that was extracted from hemp which contains some cannabinoids but has had THC removed.
- 3.4. Cannabidiol or CBD is one of the naturally occurring cannabinoids found in the Cannabis sativa L. plant.
- 3.5. 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 a Cannabis sativa L. plant.
- 3.6. Cannabinoid content refers to the levels of specific cannabinoids that are tested to be present in a harvest lot or a process lot.
  - 3.7. Certificate of analysis means a report prepared by a certified laboratory about the analytical testing it performed and the results of the testing.
  - 3.8. Certified laboratory means a laboratory that is certified by the Agency under 6 V.S.A. § 567.
  - 3.9. Concentrate means the product containing any chemical compounds removed by extraction, including cannabinoids, isomers, acids, salts and salts of isomers from a hemp crop harvest lot.
  - 3.10. Consumable means a hemp or hemp-infused product that is intended for human consumption.
  - 3.11. Consumption means ingesting, inhaling, or topically applying to skin or hair.
  - 3.12. Contaminant means any pesticide, solvent, heavy metal, mycotoxin, foreign material, and bacterial and fungal impurity introduced through cultivation or processing.
  - 3.13. Crop means hemp grown under a registration issued by 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 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 Cannabis sativa L.
  - 3.17. Distillate means an odorless clear concentrate greater than 75% of all cannabinoid compounds created by heat separation, with all impurities removed.
  - 3.18. Drying/storage area means the area where hemp is dried and stored. A Drying/Storage Area may include areas where harvested hemp is confined, housed, or stored, whether within or without structures, and areas to store agricultural inputs or hemp agricultural wastes associated with producing the crop.
  - 3.19. Dry weight means the weight of plant material with no greater than 13% moisture content.
  - 3.20. Food means:
    - (a) articles used for food or drink for humans or animals,
    - (b) chewing gum, and
    - (c) articles used for components or any such article.
  - 3.21. Full spectrum means a hemp or hemp-infused product that is derived from a hemp extraction and contains cannabinoids, aromatics, essential vitamins and minerals, fatty acids, protein, chlorophyll, flavonoids, and terpenes, and that has not been reformulated or has not had cannabinoid isolates or distillates added to it.
  - 3.22. Grow means the planting, cultivating, harvesting, drying, selling, storing or transporting of hemp crops grown by the Grower. “Grow” may be used interchangeably with the word “produce” or “cultivate.”
  - 3.23. Grower means a person who is registered with the Agency to grow hemp crops.
  - 3.24. Handle means the possession of hemp crops for any period of time on premises owned, leased, operated, or controlled by a Registrant registered to grow or process hemp. Handling also includes possession of hemp crops for any period of time other than during their actual transport from the premises of a Registrant to the premises of another Registrant or out-of-state recipient to cultivate or process them. “Handle” does not mean possession of hemp products or hemp-infused products.

- 3.25. Harvest lot means a quantity of hemp harvested by the same Grower in a single growing season that is grown contiguously in the same cultivation area.
- 3.26. Harvest lot number means a unique numerical identifier that begins with the last five 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. whether growing or not and any part of that plant, including the seeds, all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, with the federally defined tetrahydrocannabinol concentration level, or is a type III or IV cannabis plant as defined in Sections 3.50 and 3.51 of these Rules.
- 3.28. Hemp concentrate means a substance obtained by separating cannabinoids from hemp leaves, flowers, or stalk using a mechanical, chemical or other process which consists primarily of cannabinoids.
- 3.29. Hemp crop means standing or harvested hemp that complies with the federal definition of hemp prior to processing.
- 3.30. Hemp product or Hemp-infused product means all products that have the federally defined tetrahydrocannabinol concentration level for hemp, that are derived from or made by processing hemp plants or plant parts, and that are prepared in a form available for commercial sale. This includes cosmetics, personal care products, food intended for animal or human consumption, cloth, cordage, fiber, fuel, paint, paper, particleboard, 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 a hemp-infused product and that is intended to be present in the finished process lot.
- 3.32. Isolate means a concentrate greater than 95% of a single cannabinoid compound created by chemical process.
- 3.33. Label Guarantee is the declared minimum or maximum of individual cannabinoid content in a hemp product or hemp-infused product.
- 3.34. Person means:
- (a) an individual, partnership, corporation, association, unincorporated organization, trust, or other legal or commercial entity, including a joint venture or affiliated ownership, or
  - (b) individuals and entities affiliated with each other for profit, consideration, or any other beneficial interest derived from agricultural management, including lessors and lessees.
- 3.35. Personal cultivation means cultivating hemp on less than 0.5 acres for personal use. No hemp crop, hemp product or hemp-infused product shall enter into commerce from cultivation areas for personal use.
- 3.36. Process means storing, drying, trimming, handling, compounding, or converting a hemp crop or hemp concentrate into hemp products or hemp-infused products that comply with the federal definition of hemp. It also includes transporting, aggregating, or packaging hemp from a single or multiple growers or processors. "Process" does not include the addition of "hemp concentrate" to a product at the point of sale.
- 3.37. Processor means a person who is registered with the Agency to process hemp crops.
- 3.38. Process lot means:
- (a) any amount of pressed seed oil, fiber, or seed of the same type, processed at the same time using the same methods and same standard operating procedures; or

(b) any amount of consumable hemp product or hemp-infused product of the same type processed at the same time using the same ingredients and same standard operating procedures.

- 3.39. 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 then followed by a unique number to identify the process lot.
- 3.40. Processing site means a single parcel of land and all infrastructure on that parcel used to process or intended to be used to process hemp.
- 3.41. "Produced in Vermont" means only those hemp products or hemp-infused products that are grown and manufactured in their entirety within Vermont pursuant to standards established by these Rules.
- 3.42. Product complaint means a written, electronic, or oral communication received by the Agency in which the person making the communication states a concern related to a hemp crop, a hemp product, or a hemp-infused product.
- 3.43. Registrant means a person registered with the Hemp Program.
- 3.44. Retting means to soak in water or expose to moisture to facilitate the removal of the fiber from woody tissue through partial rotting.
- 3.45. Tetrahydrocannabinolic acid is the precursor of delta-9 THC before decarboxylation.
- 3.46. Total theoretical tetrahydrocannabinol or THC content is the maximum amount of possible delta-9 tetrahydrocannabinol in a hemp crop if total conversion were to occur and will be determined by the following calculation:

the sum of the concentration of delta-9 tetrahydrocannabinol and its precursor, tetrahydrocannabinol-A, multiplied by 0.8777 on a dry weight basis and reported to two significant figures:

$$\text{Total theoretical THC} = ([\text{delta} - 9 \text{ THC}] + ([\text{THC} - \text{A}] * 0.8777))$$

- 3.47. Taxonomic determination means a process of classification based on genetic testing of known cannabinoid ratios based on stable cultivars.
- 3.48. Type I means a cultivar of *Cannabis sativa* L. that is THC dominate.
- 3.49. Type II means a cultivar of *Cannabis sativa* L. ratio between CBD and THC vary, and where delta-9 THC concentration is greater than 0.3 percent.
- 3.50. Type III means a cultivar of *Cannabis sativa* L. that is CBD dominate, at least 20:1.
- 3.51. Type IV means a cultivar of *Cannabis sativa* L. that is neither THC nor CBD dominate.
- 3.52. Whole plant concentrate means an extract that contains both water and lipid soluble plant compounds.

#### Section 4 Program Registration Requirements

- 4.1. To register as a Grower or Processor in the Hemp Program, a person must complete an application on a form provided by the Agency and submit the application form, all required documentation, and a registration fee to the Agency. The person must include in their application a listing and

location of all cultivation, drying, and storage areas and processing sites at which they plan to grow or process hemp. A person and their cultivation, drying, and storage areas and processing sites are registered with the Hemp Program when the person receives a written registration from the Agency.

- (a) To process an application, the Agency may verify the information provided on the submitted application form and required documentation. The Agency may request additional documentation.
- (b) If the application form is not fully completed, if all requested documentation is not provided, or if the registration fee is not submitted at the same time as the application form, the Agency may reject the application as incomplete. A person whose application is rejected as incomplete may reapply for registration at any time.
- (c) A person who materially falsifies any information in the application form and requested documentation is ineligible to participate in the Hemp Program.
- (d) To register multiple cultivation areas or processing sites, a person may submit a single application form identifying all cultivation areas or processing sites associated with that application and appropriate registration fee.
- (e) Any information provided to the Agency as part of a person's application may be publicly disclosed and may be provided to law enforcement agencies without notice to the applicant.

4.2. Changes to registrations must be requested in writing and must obtain written approval from the Agency.

4.3. A person convicted of a felony relating to a controlled substance under state or federal law before, on, or after December 20, 2019 shall be ineligible to register with the Hemp Program during the 10-year period following the date of the conviction unless the person has lawfully registered with the Hemp Program prior to this date.

4.4. Registrations may not be sold or transferred by a Registrant to any other person.

4.5. Registrations expire on December 31 of each year. A new application for registration must be submitted for each year of growing or processing.

4.6. A person holding a valid registration at the date of the adoption or amendment of these Rules will be considered registered for the remainder of the calendar year in which the Rules are adopted or amended.

## 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 hemp crops offered for sale or transferred to a Processor or the public.

5.2. A Grower shall grow hemp crops only in registered cultivation areas and may handle their hemp crops only in registered drying and storage areas.

5.3. A Grower of hemp crops produced outdoors for seed must notify all Growers of biomass and flower within a radius of 5 miles of their cultivation areas. The Agency will provide names and contact information to the Grower based on previous year Registrants.

5.4. A Grower may transfer or sell hemp crops, clones, or plants to a consumer for personal cultivation and use and, when doing so, the Grower must:

- (a) make certificates of analysis available upon request for public inspection; and

(b) offer a list of any pesticides used in the cultivation of the hemp crops, clones, or plants.

5.5. A Grower must assign each harvest lot a harvest lot number.

5.6. A Grower shall maintain the records listed in (a) through (c) below.

(a) Records of all purchases of hemp seed, starts, and clones. The records shall include:

- i. the date of purchase;
- ii. the cultivar name;
- iii. the name and address of the company from which the purchase was made;
- iv. a certificate of analysis by a certified laboratory on the cultivar's compliance with the federally defined tetrahydrocannabinol concentration level or associated genetic tests that the cultivar is a type III or type IV cannabis plant;
- v. the name and address of the certified laboratory that conducted the analysis; and
- vi. a notation of the cultivation area where the cultivar was grown.

(b) Records of all transfers of hemp crops to a Processor or out-of-state recipient. The records shall be kept by harvest lot number and shall include:

- i. the dates of harvest and transfer;
- ii. the name and address of the Processor and their registration number or the name and address of the out-of-state recipient; and
- iii. an estimate of the amount of hemp transferred on a dry weight basis in pounds.

(c) Records of testing request forms, documentation of sampling in conformance with Agency sampling protocols, and certificate of analysis for each harvest lot identified.

5.7. A Grower shall keep the records required by this section for a minimum of three (3) years from harvest date by harvest lot number.

5.8. A Grower shall make the records available to the Agency for inspection upon its request.

5.9. A Grower shall submit annually to the Agency a report containing the information required by this section and any other information requested by the Agency under Title 6. This information shall be available upon request to the public provided that pursuant to 6 V.S.A. § 61 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.

## 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 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, or other extraction methods for which the Processor has received written approval from the Agency.

6.3. A Processor shall not use synthetic cannabinoids in the production of any hemp products or hemp-infused products.

6.4. A Processor may process hemp crops only at registered processing sites. A Processor must report in writing to the Agency a closure of a processing site within business 10 days of its closure.

6.5. A Processor must assign each process lot a process lot number at the time of processing to each hemp concentrate, hemp product, or hemp-infused product extracted or manufactured by the Processor.

- 6.6. A Processor that extracts THC or THC-A from a hemp crop must submit for approval by the Agency a disposal plan that ensures the THC and THC-A is disposed of in a manner that renders the THC and THC-A unusable and that accounts by process lot number all THC or THC-A removed.
- 6.7. A Processor may transfer or sell hemp concentrate for the purpose of reformulation into hemp products or hemp-infused products only to:
- (a) the Grower of the hemp crop if they are a Processor, or
  - (b) to another Processor.
- 6.8. A Processor extracting hemp concentrate shall maintain the records listed in (a) through (c) below.
- (a) Records of all hemp crop(s) received by harvest lot number:
    - i. The name, address, and registration number of the Grower for any amount of hemp crop transferred to the Processor;
    - ii. Date(s) the hemp was received;
    - iii. Amount of hemp on a dry weight basis in pounds received;
    - iv. Documentation of sampling performed as required by Agency sampling protocols; and
    - v. All testing request forms and certificates of analysis.
  - (b) Records of hemp crops that 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. Date the hemp crop was received;
    - iii. Amount of hemp on a dry weight basis in pounds received; and
    - iv. The associated certificate of analysis for the hemp crop.
  - (c) Records of certificate of analysis by process lot number reported by a certified laboratory, detailing cannabinoid content for any hemp crop extracted by Processor.
- 6.9. A Processor who manufactures hemp products or hemp-infused products of the same type from a harvest lot or harvest lots or from a hemp concentrate or hemp concentrates and who uses the same formula and the same standard operating procedures and who offers them for retail sale shall maintain the following records:
- (a) Copies of records outlined in Section 6.8 that are used to formulate the product;
  - (b) The standard operating procedure for formulating the product;
  - (c) A certificate of analysis reported by a certified laboratory that demonstrates cannabinoid content of the product; and
  - (d) A copy of the product's label, as required in Section 11.
- 6.10. A Processor of hemp-infused products that offer no label guarantee of a specific quantity of CBD shall be required to maintain records of formulation but shall not be required to maintain records of a certificate of analysis on the formulated product.
- 6.11. A Processor shall keep all records required under this section for a minimum of three (3) years.
- 6.12. A Processor shall make these records available to the Agency for inspection upon its request.
- 6.13. A Processor shall submit annually to the Agency a report containing the information required by this section and any other information requested by the Agency under Title 6. This information shall be available upon request to the public provided that pursuant to 6 V.S.A. § 61 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.

Section 7 Testing Requirements for Growers

- 7.1. A Grower must test hemp crops for compliance with these rules.
- 7.2. A Grower may have a harvest lot tested for potency level or request a taxonomic determination of cultivars within a harvest lot.
- 7.3. A Grower may propose testing parameters for pesticides, heavy metals, mycotoxins, and bacterial and fungal contaminants that are based on a risk analysis and use for approval by the Agency.
- 7.4. All testing for compliance with these rules, potency, and contaminants shall be conducted by a certified laboratory.
- 7.5. A harvest lot complies with the acceptable potency level when a certificate of analysis from the certified laboratory shows that:
  - (a) the cultivars that comprise the harvest lot are either type III or type IV cannabis plant; or
  - (b) the delta-9 THC concentration is 0.3 percent or less and the total theoretical THC concentration is 1 percent or less on a dry weight basis; and
  - (c) contaminant levels are below action limits outlined by the Agency for pesticides, heavy metals, mycotoxins, and bacterial and fungal contaminants.
- 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. The Agency may offer testing services to a Grower. The Agency will charge a fee for this service.

Section 8 Testing Requirements for Processors

- 8.1. A Processor must ensure retail hemp products and hemp-infused products offered for sale are compliant with these rules.
- 8.2. A Processor may propose testing parameters for pesticides, heavy metals, mycotoxins, and bacterial and fungal contaminants that are based on a risk analysis, the stage of the manufacturing process, and delivery method (inhalant, ingestion, or absorption) for approval by the Agency.
- 8.3. A process lot complies with Agency standards when
  - (a) a certificate of analysis from the certified laboratory shows that the product's THC concentration meets the acceptable potency level; or
  - (b) the Processor's formulation represents compliance with the acceptable potency level; and
  - (c) a certificate of analysis from the certified laboratory shows based on Section 8.2 and evaluation of what contaminant tests are appropriate that contaminant levels are below action limits as outlined by the Secretary for pesticides, heavy metals, mycotoxins, and bacterial and fungal contaminants.
- 8.4. When a hemp product or hemp-infused product does not satisfy acceptable potency or contaminant levels and is offered for retail sale, the product is subject to stop sale and must be disposed of or destroyed in accordance with Section 14.
- 8.5. The Agency may offer testing services to a Processor. The Agency will charge a fee this service.

Section 9 Reporting and Disposal, Destruction, or Mitigation Requirements

- 9.1. If a harvest lot is not compliant with the acceptable potency or contaminants levels:
  - (a) Within 24 hours of the completion of testing of a harvest lot, the certified laboratory shall send the certificate of analysis containing the result to:
    - i. the Agency by certified mail or electronically to [AGR.Hemp@vermont.gov](mailto:AGR.Hemp@vermont.gov) , and



- ii. the Registrant who requested the testing.
- (b) Within 48 hours of receipt of the certificate of analysis containing the result from the certified laboratory, the Registrant who requested the testing shall notify the Agency and provide the following to the Agency by certified mail or electronically to [AGR.Hemp@vermont.gov](mailto:AGR.Hemp@vermont.gov):
  - i. a copy of the certificate of analysis for the harvest lot;
  - ii. a map of the location of the harvest lot; and
  - iii. the Registrant's proposed actions for disposal, destruction or mitigation.
- (c) Failure to notify the Agency within 48 hours of receipt of a certificate of analysis of a harvest lot exceeding the acceptable potency level or of a harvest lot with a taxonomic determination as a type I or type II cannabis plant may result in enforcement under Vermont law.
- (d) A harvest lot exceeding the acceptable potency level or a harvest lot with a taxonomic determination as a type I or type II cannabis plant shall not be used to create hemp products or hemp-infused products. Doing so will result in the disposal or destruction of those products.

9.2. All methods of disposal and destruction of harvest lots or process lots shall be reviewed and approved by the Agency.

9.3. The Registrant is responsible for the cost of disposal or destruction.

#### 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 or that are type III and type IV cultivars, unless part of a disposal or destruction plan required in Sections 9 and 14.
- 10.2. Registrants shall not formulate, handle, wholesale or retail a hemp product or hemp-infused product that contains a delta-9 tetrahydrocannabinol concentration greater than 0.3 percent on a dry weight basis except as provided in Section 6.7.
- 10.3. A Registrant selling or transporting a hemp crop, hemp product, or hemp-infused product out of state may have the hemp crop, hemp product or hemp-infused product confirmed by the Secretary to meet the definition of hemp under State or federal law. A request for confirmation by the Secretary must include:
  - (a) A copy of the certificate of analysis from a certified laboratory for a hemp crop identified by harvest lot number, or for a hemp or hemp-infused product identified by process lot number; and
  - (b) Within 30 days of receiving the request for a confirmed crop or product, the Agency will generate a confirmation that may accompany the shipment of the hemp crop, hemp product, or hemp-infused product.

#### Section 11 Requirements for Labeling of Hemp Products and Hemp-infused Products

- 11.1. All hemp products or hemp-infused products produced in Vermont must be labeled and traceable to a certificate of analysis for all 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 terms “whole plant,” “isolate,” “full spectrum,” “broad spectrum,” and “distillate” shall comply with the definitions 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 manufacturer, of the product.
  - (b) A statement that the product contains ingredients that are derived from “hemp.”
  - (c) A list of all ingredients, in descending order of predominance by weight in the product, when the ingredient represents at least 0.05% of the content in the product;
  - (d) An accurate statement of the quantity of the content in weight, measure, or numerical count;
  - (e) The guaranteed amount of any purported cannabinoids contained in the product by serving size.
  - (f) A statement that this product contains THC, if applicable; and
  - (g) Manufacturing date, expiration date, and process lot number.
- 11.5. All label guarantees regarding potency must be an accurate and within +/-10% per serving size listed on the label.

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

- 12.1. The Secretary establishes and adopts the Vermont Hemp brand and grades under its authority in 6 V.S.A. Chapter 21.
- 12.2. A hemp crop grown, and sampled and tested in accordance with Agency sampling and testing protocols, and with a certificate of analysis from a certified laboratory shall have the following grades
  - (a) Grade AA is a hemp crop produced with a cannabidiol concentration greater than 14 percent;
  - (b) Grade A is a hemp crop produced with a cannabidiol concentration between 14 percent and 12 percent;
  - (c) Grade B is a hemp crop produced with a cannabidiol concentration between less than 12 percent and 10 percent;
  - (d) Grade C is a hemp crop produced with a cannabidiol concentration between less than 10 percent and 8 percent; and
  - (e) A hemp crop produced with a cannabidiol concentration less than 8 percent is considered biomass.
- 12.3. Vermont Hemp is a hemp crop, hemp product, or hemp-infused product that
  - (a) is Produced in Vermont as defined in Section 3 by Registrants of the Hemp Program;
  - (b) is grown and processed by Registrants that to the satisfaction of the Agency document practices and conditions with the potential to reduce risks for contaminants in locations including and not limited to cultivation areas, and storage, drying, and processing facilities;
  - (c) is tested to be compliant with potency and contaminant action levels, as applicable; and
  - (d) Compliant with the Vermont Hemp Program’s labeling requirements in Section 10.
- 12.4. The Registrant must apply for certification of meeting all the requirements of Vermont’s Hemp brand annually to the Agency, using forms provided by the Agency.

Section 13 Inspection and Record Reviews

- 13.1. The Agency shall conduct annual inspections of Registrants at random to verify that hemp is not produced in violation of state and federal law.
- 13.2. The Agency may inspect a Registrant's premises, machinery, equipment and facilities, any crop during any growth phase or any hemp product or hemp-infused product during processing or storage. This inspection 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.
- 13.3. The Agency may inspect any retail location offering hemp products or hemp-infused products. This inspection may include the taking of samples of such products.

Section 14 Enforcement

14.1. Negligent violations.

(a) If the Secretary determines that a person who has produced hemp has negligently violated Chapter 34 or these Rules, the person must correct their negligent violation(s). Examples of negligent violations are:

- i. a person who is registered with the Hemp Program negligently fails to provide a legal description of the land on which they produce hemp;
- ii. a person produces hemp and negligently fails to obtain a registration from the Hemp Program;
- iii. a person who is registered with the Hemp Program and negligently produces Cannabis sativa L. with a delta-9 tetrahydrocannabinol concentration of greater than 0.3 but no greater than one percent.
- iv. a person who is registered with the Hemp Program and negligently produces Cannabis sativa L. with a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis and a total theoretical tetrahydrocannabinol concentration greater than one percent dry weight basis, or a type I or type II cultivar.

(b) To correct their negligent violation(s), a person who has negligently violated Chapter 34 or these Rules must:

- i. propose to the Agency within 10 days of receipt of a notice of violation a proposed corrective action plan that includes a proposed date of completion;
- ii. obtain written approval from the Agency for the corrective action plan;
- iii. comply with the approved corrective action plan; and
- iv. report twice annually to the Secretary on their compliance with these Rules for the next 2 calendar years.

(c) A corrective action plan for a person who has registered with the Hemp Program and who negligently violates these Rules by producing Cannabis sativa L. with a delta-9 tetrahydrocannabinol concentration greater than 0.3 but no greater than one percent on a dry weight basis shall include a requirement that the Registrant:

- i. 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;
  - ii. sell the hemp crop to a dispensary registered under 18 V.S.A. chapter 86; or
  - iii. arrange for the Secretary to destroy or order the destruction of the hemp crop.
- (d) A person who is registered with the Hemp Program and negligently produces *Cannabis sativa* L. with a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis and a total theoretical tetrahydrocannabinol concentration greater than one percent dry weight basis, or a type I or type II cultivar shall arrange for the Secretary to destroy or order the destruction of the hemp crop.
- (e) A person who negligently violates these Rules shall not as a result of that violation(s) be subject to any criminal or civil enforcement action by the federal or state government.
- (f) A person who negligently violates these Rules 3 times in a 5-year period shall be ineligible to produce hemp for a period of 5 years beginning on the date of the third violation.

14.2. Other violations.

If the Secretary determines that a person who has produced hemp has violated Chapter 34 or these Rules with a culpable mental state greater than negligence the Agency shall immediately report the person to the United States Attorney General and the Vermont Attorney General as required by Section 10113 of the Agriculture Improvement Act of 2018, Public L. No. 115-334.

Section 15 Exemptions

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

- (a) is seed or seed oil for consumption and considered “Generally Recognized as Safe” by the U.S. Food and Drug Administration; or
- (b) is not intended for consumption and will be used for fiber, building material or as animal bedding, and is not part of an order of destruction of a hemp crop from the Secretary.

Section 16 Effective Dates

- (a) All except the following sections shall become effective on date of adoption.
  - i. Section 11 and;
  - ii. Section 12 shall become effective on July 1, 2020.