

# Frequently Asked Questions & Answers for Vermont Hemp Growers about Commerce and Out-of-State Sales

## Introduction—State of Hemp Regulation in Vermont

The final rule outlining the U.S. Domestic Hemp Production Program became effective in March of 2021, creating a national regulatory framework for hemp cultivation. The 2014 Farm Bill pilot program authorization is due to expire at the end of 2021, if Congress does not take action to extend the authorization before the end of the year. Vermont currently operates under the pilot program authorization. Operating under this authorization has enabled Vermont's farmers to enter the hemp market and have more flexibility in sampling and testing crops for tetrahydrocannabinol concentration.

Currently, individuals must register with the Vermont Hemp Program to grow and process hemp. The [Vermont Hemp Rules](#) are in effect, and include registration, testing, reporting and recordkeeping requirements. The [Cannabis Quality Control Program](#) established action limits for solvents, heavy metals, and microbiological contaminants, and contains additional information about testing requirements.

Compliance with the Vermont Hemp Rules does not guarantee compliance with other legal requirements, and each registrant is personally responsible for complying with all applicable state and federal laws.

## FAQs about Interstate Commerce and Out-of-State Sales

There are states and tribes that regulate the production of hemp under an USDA approved plan or USDA may regulate production under the national plan. There continues to be states operating under the pilot program authorization in the 2014 Farm Bill. Due to these state-by-state conditions there remains a patchwork of authority over the production of hemp across the US. This document will cover some of these differences as well as provide guidance on shipping or transporting hemp crops across state boundaries. For information about state, tribe, or national regulation over the production of hemp and other updates, [click here](#). The U.S. Domestic Hemp Production Program does not regulate the processing of hemp crops including extraction of cannabinoids.



## ***1. Does the 2018 Farm Bill preempt state or tribal controlled substances acts?***

No. While the 2018 Farm Bill removed hemp from the Federal Controlled Substances Act, this only impacts federal DEA drug enforcement, not state or local enforcement. USDA requires states that want to encourage hemp production to pass legislation allowing the cultivation, possession and sale of hemp in their state. Vermont enacted provisions removing hemp from the controlled substances list, and provided authorization to the Agency of Agriculture, Food and Markets to regulate cultivation and processing of hemp.

The District of Columbia has not exempted hemp from their drug laws. Federally recognized tribes can also prohibit or allow the production or possession of hemp.

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## ***2. Can hemp be transported in interstate commerce anywhere in the United States?***

Yes, the 2018 Farm Bill pre-empts state and tribal laws. No state or tribe may prohibit the interstate transportation of hemp through its jurisdiction. This applies to hemp produced under a 2014 Farm Bill pilot program or under a plan approved under the 2018 Farm Bill.

Some states, however, may impose travel restrictions. In Idaho, for example, shipments may only travel on interstate highways, and drivers must present the licenses of the growers and laboratory certification of acceptable THC levels. If you transport hemp crops legally produced in Vermont into another state or across state boundaries, make sure to understand the requirements for each state you intend to ship into or through.

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## ***3. Can tribes develop their own hemp production plans?***

Yes, but the tribe must be federally recognized. USDA offers a [full list of tribal plans](#) under review or approved.

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## ***4. Are there any restrictions on eligibility for licensure?***

Any person convicted of a felony related to a controlled substance subsequent to the passage of the 2018 Farm Bill - December 20<sup>th</sup>, 2018 is ineligible for licensure for a period of 10 years following conviction. Anyone who was lawfully growing hemp under a state pilot program prior to October 31, 2019 is exempt from this provision, so long as there isn't a subsequent conviction. 7 C.F.R. §990.6(e)(2). States and tribes have the responsibility to determine if a felony conviction exists. This provision does not apply if the conviction was overturned on appeal, expunged or pardoned.

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**Note:** This information contained in these answers may be subject to change. This update is accurate as of August 12, 2021. Please see the [Hemp Program, Vermont Agency of Agriculture, Food, and Markets](#) for further information. **This fact sheet is provided for educational purposes only and is not intended as legal advice.**

December 2020. Published by the University of Vermont Extension Northwest Crops and Soils Program. Learn more about the program at: [www.uvm.edu/extension/nwcrops](http://www.uvm.edu/extension/nwcrops). Issued in furtherance of Cooperative Extension work, Acts of May 8 and June 30, 1914, in cooperation with the United States Department of Agriculture. University of Vermont Extension, Burlington, Vermont. University of Vermont Extension, and U.S. Department of Agriculture, cooperating, offer education and employment to everyone without regard to race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or familial status. Any reference to commercial products, trade names, or brand names is for information only, and no endorsement or approval is intended.

## 5. Can I send hemp through the United States Postal Service?

Yes. [U.S. Postal Service guidelines](#) provide that hemp, including seeds and plants, as defined by the federal Farm Bill are mailable. Hemp and hemp-based products including CBD with a THC concentration of less than 0.3% can be mailed when the mailer has complied with all applicable federal, state, and local laws pertaining to hemp production and processing. Hemp must be produced under a valid license to be mailed. Mailing hemp to a state that has not removed industrial hemp (THC concentration  $\leq$  0.3%) from its controlled substances act may be illegal. The mailer must maintain records establishing compliance with such laws, including laboratory tests or compliance reports for no less than 2 years.

[UPS guidelines](#) prohibits shipment of industrial hemp when in plant form. Products derived from hemp, however, including CBD oil may be shipped provided it is permitted by state and federal law. Compliance is the responsibility of the shipper.

FedEx, prohibits the shipment of hemp plants, leaves, hemp oil, hemp seed oil and CBD derived from hemp according to their [statement of terms and conditions](#) last updated on October 1, 2019.

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## 6. Can I export hemp to Canada?

Hemp products exported to Canada must comply with the [Canadian Cannabis Act](#). Hemp production and importation in Canada is strictly regulated. Canadian producers must purchase government certified seed from a genus that does not produce CBD. CBD is treated the same as Cannabis under the Cannabis Act. It can only be purchased in small amounts for personal use from authorized retailers from federally licensed sellers of cannabis for medical purposes or by prescription.

Non-viable seeds, stalks or fiber derived from stalks, or roots may be exported to Canada without a permit. Hemp seed and derivatives that do not contain CBD may be exported into Canada provided the exporter can provide a certificate of analysis indicating compliance with the act.

Permits for the import or export of industrial hemp (THC concentration  $<$  0.3%) are issued on a case by case basis and must comply with the Cannabis Act.

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### Full Links from this FAQ:

- [https://agriculture.vermont.gov/sites/agriculture/files/documents/PHARM/hemp/Vermont\\_Hemp\\_Rules\\_effective\\_05\\_21\\_20.pdf](https://agriculture.vermont.gov/sites/agriculture/files/documents/PHARM/hemp/Vermont_Hemp_Rules_effective_05_21_20.pdf)
- <https://agriculture.vermont.gov/public-health-agricultural-resource-management-division/hemp-program/hemp-potency-and-contaminant>
- <https://www.ams.usda.gov/rules-regulations/hemp/state-and-tribal-plan-review>
- [https://about.usps.com/postal-bulletin/2019/pb22521/html/updt\\_002.htm](https://about.usps.com/postal-bulletin/2019/pb22521/html/updt_002.htm)
- <https://www.ups.com/us/en/help-center/packaging-and-supplies/special-care-shipments/hemp.page>
- [https://www.fedex.com/content/dam/fedex/us-united-states/services/SG\\_TermsCond\\_US\\_2019.pdf](https://www.fedex.com/content/dam/fedex/us-united-states/services/SG_TermsCond_US_2019.pdf)
- <https://www.cbsa-asfc.gc.ca/publications/dm-md/d19/d19-9-2-eng.html>

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## Helpful Links:

- ⇒ [USDA's Hemp Production website](#) includes the publication from USPS on shipping hemp.
- ⇒ For information on grant funding from the USDA National Institute of Food and Agriculture (NIFA), see [NIFA's Industrial Hemp page](#).
- ⇒ For information on mailing hemp and hemp-related products through U.S. mail, see U.S. Postal Service [Publication 52 Revision: New Mailability Policy for Cannabis and Hemp-Related Products](#).
- ⇒ For information about importing hemp seeds, see the U.S. Customs and Border Protection page on [Importing hemp seeds into the U.S.](#)
- ⇒ For information on cannabis and cannabis derived products, including foods and CBD, see the Food and Drug Administration's [Regulation of Cannabis and Cannabis-Derived Products: Questions and Answers](#).
- ⇒ For general information on hemp seeds, see the resources page on the [American Seed Trade Association's website](#).



Any further questions, please contact: [agr.hemp@vermont.gov](mailto:agr.hemp@vermont.gov)

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