

# Frequently Asked Legal Questions & Answers for Vermont Hemp Growers

## Introduction—State of Hemp Regulation in Vermont

The Vermont Agency of Agriculture, Food and Markets regulates hemp production as authorized by the federal and state law. On October 1, 2020 federal legislation became effective that extended the hemp pilot program authorization in the 2014 Farm Bill until September 30, 2021. Due to this authorization extension, Vermont plans to continue to operate its Vermont Hemp pilot program into 2021.

[Vermont Hemp Program](#) participants should experience little if any change due to the extension of the pilot program. Program participants must register with the Vermont Hemp Program to grow and process hemp. Online registration for 2021 is open. The [Vermont Hemp Rules](#) remain in effect.

These rules include potency, testing, reporting and recordkeeping requirements. The action limits for contaminants, and testing requirements established can be found in the [Cannabis Quality Control Program](#).

The US Department of Agriculture (USDA) implemented the law, with *the Establishment of a Domestic Hemp Production Program (the “Interim Final Rule”)*. The rule may become final in 2021 and will create a national regulatory framework for the production of hemp.

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 that regulate the production of hemp under an USDA-approved plan or USDA regulates production under the national plan. The pilot program authorization in the 2014 Farm Bill was extended by Congress until September 30, 2021. There are other states that have not amended their laws to either allow the production of hemp, or haven't removed hemp from the controlled substance list. Due to these state-by-state conditions there remains a patchwork of authority over the production of hemp across the US and some uncertainty. These FAQs will cover some of these differences between states.



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

No. USDA requires states that want to encourage hemp production to pass legislation allowing the cultivation and sale of hemp in their state. States such as Vermont, have enacted provisions allowing individuals that register with the state to cultivate hemp.

However, states may continue to treat hemp as a controlled substance under their state law. Idaho, Mississippi, and the District of Columbia, for example, do not allow the production of hemp and have not exempted hemp from their drug laws. Federally recognized tribes can also prohibit the production or possession of hemp.

While the 2018 Farm Bill removed hemp from the Federal Controlled Substances Act, this only impacts federal DEA drug enforcement not state nor local enforcement.

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## ***2. Which states can I ship to?***

Shipping any significant quantity of hemp produced under license in Vermont to Idaho, Mississippi or the District of Columbia would likely violate their drug laws and risk criminal liability.

Other states, particularly, those operating under a 2014 Farm Bill pilot program or under the 2018 Farm Bill, will have reformed their laws to allow the production, transport, processing and possession of hemp.

As of December 14, 2020, the other states in the Northeast operate as follows:

- Connecticut, New York, Vermont, and West Virginia continue to operate under their 2014 pilot program authorization;
  - Massachusetts, Maine, Delaware, and Pennsylvania have approved USDA plans;
  - New Hampshire has excluded hemp from its Controlled Drug Act and defines hemp following the federal definition.
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## ***3. Can hemp be transported in interstate commerce anywhere in the United States?***

Yes, the 2018 Farm Bill preempts state and tribal laws. No state nor 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 lab certification of acceptable THC levels.

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## ***4. 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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## 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. And mailing hemp to a state that has not removed industrial hemp (THC concentration < 0.3%) from its controlled substances act cannot be mailed. The mailer must maintain records establishing compliance with such laws, including laboratory tests or compliance reports for no less than 2 years.

[UPS](#) 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. *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. 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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## 7. *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 or 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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## 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](#).



These answers were provided by the Vermont Hemp Program.  
Any further questions, please contact: [agr.hemp@vermont.gov](mailto:agr.hemp@vermont.gov)

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