

**STATE OF VERMONT
CANNABIS CONTROL BOARD**

RULE 2: REGULATION OF CANNABIS ESTABLISHMENTS

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PROPOSED

2. Rule 2: Regulation of Cannabis Establishments

Not every applicable prohibition, restriction, and requirement is contained in this rule. All Cannabis Establishments must abide by the prohibitions, restrictions, and requirements of Chapter 33, Title 7 of the Vermont Statutes. Cannabis Establishments must also abide by all other applicable laws, including but not limited to worker's compensation laws and tax laws.

2.1 General Provisions

2.1.1 Authority

The Cannabis Control Board adopts this rule pursuant to 7 V.S.A. §§ 865, 866, 881, 862a, 883, 884, 904, 907, and other applicable law.

2.1.2 Scope and Purpose

The Board is charged with implementing and regulating a legal market for Cannabis in Vermont. This rule regulates Cannabis Establishments and governs synthetic and hemp-derived cannabinoids.

2.1.3 Definitions

All definitions in 7 V.S.A. § 861 shall apply to this rule. The following definitions shall also apply:

- (a) "Adulterated" means that a product:
 - i. consists in whole or in part of any filthy, putrid, or decomposed substance;
 - ii. has been grown, produced, prepared, packed, or held under conditions whereby it may have been contaminated or otherwise rendered injurious to health;
 - iii. has been packed or held in a container composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;
 - iv. falls outside of action levels or established tolerances specified in Board testing guidance; or
 - v. does not have the strength, quality, purity, ingredients, or composition represented or expected or consistent with its labeling; or
 - vi. contains any additive or substance that may increase the potency, toxicity, carcinogenicity, or addictive potential of the product, or that otherwise may present an enhanced risk to human health.
- (b) "Board designee" means a person designated by the Board to act as its agent for the purpose of executing the Board's responsibilities. This may be an employee of the Board, another government agency, or a contractor.
- (c) "Clone" means a plant section from a cannabis plant not yet root-bound, which is capable of developing into a new plant.

- (d) “Distillate” means a concentrate where a segment of cannabinoids from an initial extraction are segregated through heating and cooling, with all impurities removed.
- (e) “Full spectrum” means a cannabis concentrate product or infused product that is:
 - i. derived from a cannabis concentrate;
 - ii. contains cannabinoids, aromatics, essential vitamins and minerals, fatty acids, protein, flavonoids, and terpenes; and
 - iii. has not been reformulated or has not had cannabinoid isolates or distillates added to it.
- (f) “Greenhouse” means a structure or a thermally isolated area of a building that maintains a specialized sunlit environment exclusively for, and essential to, the cultivation or maintenance of Cannabis plants and that is in use for a period of 180 days or more each calendar year.
- (g) “Harvest lot” means cannabis grown in the same manner. To meet the criteria for a single harvest lot, the given lot of cannabis would need to be on the same flowering, fertilizer, and pesticide application schedule. A single harvest lot may contain one or multiple cultivars of cannabis.
- (h) “Home occupancy business” means a business operated on the premises of an individual’s home or property where the individual is domiciled.
- (i) “Indoor cultivation” means growing Cannabis using artificial lighting.
- (j) “Interest holder” has the same meaning as defined in 11A V.S.A. § 11.01(11).
- (k) “Inventory Tracking System” means a method implemented by the Board for tracing all Cannabis and Cannabis Products grown, manufactured, and sold in Vermont.
- (l) “Isolate” means a cannabis concentrate that is more than 98 percent comprised of a single cannabinoid compound created by a chemical process.
- (m) “Licensee” means a person who has been issued a license pursuant to Board Rule 1.
- (n) “Outdoor cultivation” means growing Cannabis in a manner that does not use artificial lighting , provided that outdoor cultivators may use the minimum amount of artificial lighting necessary to keep photoperiod plants in a vegetative state. Artificial lighting for outdoor cultivation must not extend beyond May 1st in a calendar or past when the specific cultivar can sustain vegetative growth under natural sunlight, whichever comes first.
- (o) “Pesticide” shall have the same meaning as “economic poison” as defined in 6 V.S.A. § 911(5).
- (p) “Physical site of operations” means:
 - i. a cultivator’s grow site;
 - ii. a wholesaler’s product storage facility;
 - iii. a manufacturer’s site of manufacture;
 - iv. a retailer’s store location; or
 - v. a testing laboratory’s testing facility.
- (q) “Plastic” means a synthetic material made from linking monomers through a chemical reaction to create a polymer chain that can be molded or extruded at high heat into various solid forms that retain their defined shapes during their life cycle and after disposal, including material derived from either petroleum or a biologically based polymer, such as corn or other plant sources.
- (r) “Process lot” means whole or partial harvest lots that follow different paths toward market or diverted into waste. For example, a single harvest lot would be broken into two

process lots if half was sold fresh frozen to a manufacturer, and half was dried, cured, and sold as bulk flower to a retailer.

- (s) “Tincture” means a solvent, such as alcohol or glycerin, infused with cannabis. A tincture may include additional plant material. Tinctures may be sold in any volume but the total milligrams of tetrahydrocannabinol per container must not exceed 1,200mg.

Any time this rule references a retail Cannabis Establishment or otherwise references retail stores, such references shall include the retail portion of an integrated licensee unless the text of the rule plainly states that it does not.

2.1.4 Applicability

This rule applies to any entity that has been licensed pursuant to Rule 1 of the Board’s rules, including those with expired, suspended, or inactive licenses.

2.1.5 Time

- (a) In computing any time period, measured in days, that is established or allowed by this rule or by order of the Board or Chair:
 - (1) the day of the act or event that triggers the period shall be excluded;
 - (2) every day, including intermediate Saturdays, Sundays, and legal holidays shall be counted;
 - (3) the last day of the period shall be counted, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.
- (b) A “legal holiday” means:
 - (1) any day declared a holiday by the President or Congress of the United States; and
 - (2) any day declared a holiday by the State of Vermont.

2.1.6 Severability

If any portion of this rule is found to be invalid, the remaining portion of the rule shall remain in force and effect.

2.2 Generally Applicable Regulations

The requirements in this section are generally applicable to participants in the regulated market for Cannabis and Cannabis Products.

2.2.1 Business Records

The governing documents required by Rule 1.4 shall be kept current on file with the Board. The following business records shall be kept current and readily available for inspection by a Board designee at the physical site of operations:

- (a) employee list;
- (b) information related to facility security;

- (c) advertising records, if applicable;
- (d) inventory records;
- (e) insurance records;
- (f) visitor log, to the extent required by this rule;
- (g) all records retained for tax purposes;
- (h) waste log;
- (i) surveillance logs, if applicable;
- (j) testing records, including all Certificates of Analysis;
- (k) sampling unit records;
- (l) standard operating procedures manuals; and
- (m) corrective action plan and preventive action records, if applicable.

2.2.2 Insurance

- (a) A Cannabis Establishment shall obtain and maintain commercially reasonable levels of insurance, as may be further defined in published Board guidance developed in consultation with the Department of Financial Regulation.
- (b) Cannabis Establishments must be prepared to demonstrate compliance with this subsection at any time, with records maintained in such a way that they can be readily accessed from the physical site of operations upon the request of the Board or Board designee.

2.2.3 Continuing Disclosure and Background Check Requirements

At the Board's discretion, the entities or persons named in Rule 1.4.2 or 1.4.3 may be required to resubmit any information described in those sections if the Board has reason to believe that information has changed since the time of a license application or license renewal. They may be subject to the same background checks and financial disclosures provided for in those sections. The information may be shared with other state agencies, as provided for by Rule 1.4.8.

2.2.4 Health, Safety, and Sanitation

Cannabis Establishments shall:

- (a) develop safe and sanitary handling procedures for all products;
- (b) develop recall procedures appropriate to ensure that adulterated or dangerous product can be called back from the point of cultivation or manufacturing through efficient communication with downstream trading partners;
- (c) provide regular training on health, safety, and sanitation procedures;
- (d) ensure that employees follow procedures;
- (e) not produce any product that contains any meat or meat products;
- (f) not produce any dairy product as defined in 6 V.S.A. § 2672;
- (g) not produce any product that requires time and temperature control for safety;
- (h) provide documentation of product pH and Water Activity (Aw) if requested by the Board;

- (i) provide documentation of process authority review for products where the Board has requested documentation that there are no biological concerns with product manufacturing process;
- (j) immediately report to the Board breaches in health, safety, and sanitary procedures that pose a risk to consumer safety;
- (k) comply with applicable health, safety, and sanitation rules, including, but not limited to, the Vermont Occupational and Safety and Health Administration Rules, applicable fire safety rules, applicable building standards and occupancy rules, and the Manufactured Food Rule, as adopted by the Vermont Department of Health;
- (l) if co-located in a residence or building outside the jurisdiction of the Division of Fire Safety, have in the area of regulated activity at least two operating smoke detectors, or a number of operating smoke detectors at least equal in number to operating security cameras, whichever is greater; and
- (m) exclude pets and animals from all areas used for Cannabis processing, manufacturing, or storage.

Subsection (k) does not assign responsibility for enforcing those regulations to their respective state agencies, nor does it indicate such responsibility.

2.2.5 Employment and Training

- (a) Licensee Training: In accordance with 7 V.S.A. § 865(a), the agents of those who control a Cannabis Establishment shall complete an enforcement seminar once every three years. For the purposes of this section, an agent refers to anyone who is an employee of the establishment, who works at the establishment, or who plays a significant operational role within the licensee, including members of the licensee's board of directors or similar governing body.
- (b) General Employee Training: within 60 days of hire and annually after that, employees of Cannabis Establishments must complete trainings regarding the following topics, except that employees of retail establishments may not sell Cannabis or Cannabis Products to consumers without first completing trainings regarding the first 5 topics of the following list:
 - i. the Cannabis Establishment's operating, security, health, safety, and sanitary procedures;
 - ii. compliance, enforcement, inspection, incident reporting, and record-keeping;
 - iii. acceptable forms of identification for staff and visitors, if permitted by this rule;
 - iv. inventory control and appropriate tracking systems;
 - v. cash handling;
 - vi. human trafficking and domestic violence awareness;
 - vii. diversity, equity, and inclusion;
 - viii. racism and bias; and
 - ix. sexual harassment and discrimination.
- (c) Retail Employee Training: customer-facing employees of retail Cannabis Establishments must complete trainings regarding the following topics, and may not sell Cannabis or Cannabis Products to consumers until they do so:
 - i. the health effects of Cannabis and Cannabis Products;

- ii. preventing the sale of Cannabis to minors; and
- iii. signs of overconsumption and signs of mental health or substance abuse disorder.

2.2.6 Tracking of Cannabis and Cannabis Products

- (a) Cannabis Establishments shall comply with the Inventory Tracking System in a manner determined by the Board and shall cooperate with any third-party vendors the Board utilizes for the purpose of implementing the system. The Inventory Tracking System policy shall be readily available to the public and will not change without at least 90 days of notice.
- (b) Cannabis Establishments shall be responsible for costs associated with compliance with, and adoption of, the Inventory Tracking System.
- (c) All Cannabis and Cannabis Products must be tracked using the Inventory Tracking System from the time the Cannabis is grown by a cultivator until it is sold to a consumer by a retailer. A Cannabis Establishment must reconcile all on-premises and in-transit Cannabis or Cannabis Product inventories each month and must complete the reconciliation within 15 days of the end of each month.
- (d) Cannabis Establishments must have the ability to reconcile transported and on-hand Cannabis and Cannabis Product inventory with the Inventory Tracking System and the associated transaction history and transportation order receipts.
- (e) The Inventory Tracking System may be accessed only by actively licensed Cannabis Establishments, and licensees shall not share credentials or access with any person other than a bona fide employee with an active Cannabis Establishment identification card. Only wholesalers, manufacturers, cultivators, and propagation cultivators may submit products for registration.
- (f) If Cannabis or Cannabis Product is not lawfully transferred to a licensee or sold to a consumer, it must be disposed of in the manner prescribed by section 2.2.8 of this rule and the disposal must be entered into the Inventory Tracking System.
- (g) Cannabis Establishments and the individuals using the Inventory Tracking System are responsible for the accuracy of all information entered into the Inventory Tracking System. Any misstatements or omissions may be considered a license violation affecting public safety.

2.2.7 Transportation of Cannabis and Cannabis Products

Cannabis and Cannabis Products may be transported by the following individuals in the following ways:

- (a) Only individuals who have a Cannabis Establishment identification card issued pursuant to Rule 1.16 are permitted to transport Cannabis or Cannabis Products between Cannabis Establishments. Individuals transporting Cannabis or Cannabis Products must carry their identification card at all times while transporting Cannabis or Cannabis Products.
- (b) Transportation must take place in a vehicle, except that transportation in a vehicle is not required if the licensee is transporting Cannabis or Cannabis Product from one licensed premises to another within the same or a contiguous property, or any transport where the destination Cannabis Establishment can be seen by the unaided eye from the originating Cannabis Establishment.

- (c) When Cannabis or Cannabis Products are transported in a vehicle:
 - i. they must not be visible from outside the vehicle;
 - ii. the driver must not be able to access them from the driver's seat; and
 - iii. the vehicle must be unmarked.
- (d) Vehicles used for transportation must be registered and current in their registration, inspection, and insurance. Vehicles must have a valid registration with a state's Department of Motor Vehicles, or equivalent agency.

Cannabis Establishments must conduct transports as follows:

- (e) Cannabis Establishments may transport Cannabis and Cannabis Products only between Cannabis Establishments.
- (f) The transporting Cannabis Establishment must enter all Cannabis and Cannabis Products to be transported into the Inventory Tracking System.
- (g) Prior to departure from a Cannabis Establishment, the establishment must generate a transport manifest, on a form prescribed by the Board and made available from the Board's website, that contains at least the following:
 - i. departure date, location, and approximate time of departure;
 - ii. name and location of the destination Cannabis Establishment(s);
 - iii. name and identification card number of those transporting the Cannabis or Cannabis Product;
 - iv. product names, process lots, and quantities (by weight and unit) for each product to be delivered to the specific Cannabis Establishment(s);
 - v. estimated time of arrival at each Cannabis Establishment;
 - vi. transport vehicle's make, model, and license plate number; and
 - vii. a signature line and time notation to be signed by an employee of the Cannabis Establishment who receives the transported product.
- (h) Cannabis Establishments must transmit transport manifests to receiving Cannabis Establishments before departure.
- (i) While transporting Cannabis or Cannabis Products, individuals must log the times of arrival at, and departure from, any stops, whether planned or unplanned. Logs must be maintained contemporaneously and must give a reason for stops that are not at Cannabis Establishments.
- (j) To the extent possible, individuals transporting Cannabis or Cannabis Products must stay with their vehicles while transporting Cannabis or Cannabis Products. Where Cannabis Licensed Agents have the option to stay with their vehicle, they must choose that option. Except for the entry and exit of those transporting the Cannabis or Cannabis Product, vehicles must be locked and secured.
- (k) No transport of Cannabis or Cannabis Products shall cross state borders.

Cannabis Establishments must receive transports as follows:

- (l) Cannabis Establishments receiving Cannabis or Cannabis Product from a transport must log the time of receipt.
- (m) Upon receipt of a transport, the receiving Cannabis Establishment shall ensure that the products received are as described in the transport manifest and shall adjust its records and the Inventory Tracking System to reflect the receipt of inventory within 24 hours of

when it is received. If there are discrepancies, the receiving Cannabis Establishments must specify them.

Transports must meet these additional conditions:

- (n) Storage and transportation shall be under conditions that will protect Cannabis and Cannabis Products from loss and theft, as well as against physical, chemical, and microbial contamination and against deterioration of product.
- (o) If a Cannabis Establishment is transporting over 20 pounds of Cannabis on a dry weight basis, the Cannabis must be transported in a secure, locked storage compartment within the transportation vehicle.
- (p) Cannabis Establishments shall report to the Board any vehicle accidents, diversions, losses, or other reportable incidents that occur during transport, within not more than 24 hours of such accidents, diversions, losses, or other reportable incidents.
- (q) In the event Cannabis has failed required testing, has been contaminated, or otherwise presents a risk of cross-contamination to other Cannabis, such Cannabis may only be transported if it is physically segregated and contained in a sealed package that prevents cross-contamination.

2.2.8 Waste Disposal

- (a) All applicable federal, state, and local statutes, regulations, and ordinances apply to waste disposal from Cannabis Establishments. This includes, but is not limited to, all regulations pertinent to chemical, dangerous, and hazardous waste, such as those that may be generated during product manufacturing processes, as well as all pesticides and other agricultural chemicals.
- (b) Cannabis or Cannabis Products must be rendered unusable and unrecognizable before disposal. The acceptable methods for rendering Cannabis and Cannabis Product unusable and unrecognizable will be enumerated by the Board in a policy that will be readily available to the public.
- (c) Organic material that has either no tetrahydrocannabinol content or a tetrahydrocannabinol content under 0.3%, doesn't need to be rendered unusable or unrecognizable. It can be composted onsite or disposed of in a manner otherwise consistent with applicable law and regulation.
- (d) Disposal of Cannabis and Cannabis Products must be tracked with the Inventory Tracking System, as provided for by section 2.2.6 of this rule.

2.2.9 Packaging

- (a) The following requirements apply to all Cannabis and Cannabis Product packaging as it is transferred between Cannabis Establishments. Such packaging must:
 - i. meet the requirements of section 2.2.10(b) of this rule;
 - ii. clearly identify package contents;
 - iii. be free from false or misleading statements;
 - iv. be free of brand names that do not correspond with the name or assumed business name of an actively licensed cannabis establishment with actual responsibility for and involvement in production of the product; and

- v. not use objects, such as toys, inflatables, movie characters, cartoon characters, child-friendly depictions of food or other consumables, or include any other display, depiction, or image designed in any manner likely to be appealing to minors or anyone under 21 years of age.
- (b) Packaging that is intended for consumer purchase at a retail location shall be reusable and shall not be plastic. In addition, such packaging shall meet further requirements to the extent provided for in sections 2.3.5, 2.6.3, 2.7.3, and 2.8.4 of this rule.

2.2.10 Warning Labels

The Board will make copies of the labels below readily available for use by Cannabis Establishments.

- (a) All marketing, advertising, branding, packaging, and promotion must include the following warning exactly as it is below:

*Cannabis has not been analyzed or approved by the Food and Drug Administration (FDA). For use by individuals 21 years of age and older or registered qualifying patient only. **KEEP THIS PRODUCT AWAY FROM CHILDREN AND PETS. DO NOT USE IF PREGNANT OR BREASTFEEDING.** Possession or use of cannabis may carry significant legal penalties in some jurisdictions and under federal law. It may not be transported outside of the state of Vermont. **The effects of edible cannabis may be delayed by two hours or more.** Cannabis may be habit forming and can impair concentration, coordination, and judgment. Persons 25 years and younger may be more likely to experience harm to the developing brain.*

It is against the law to drive or operate machinery when under the influence of this product. National Poison Control Center 1-800-222-1222.

- (b) All product packaging must prominently feature the International Intoxicating Cannabinoid Product Symbol (IICPS) and a red octagon containing the text “NOT SAFE FOR KIDS” as follows:



- (c) All product packaging must include the following statement, including capitalization, in at least 10-point Times New Roman, Helvetica or Ariel and bolded font:

KEEP OUT OF REACH OF CHILDREN

- (d) All product packaging for products that contain multiple servings must contain the following statement, including capitalization, in at least 10-point Times New Roman, Helvetica or Ariel and bolded font:

INCLUDES MULTIPLE SERVINGS

2.2.11 Advertising

In addition to those contained in 7 V.S.A. § 864 and section 2.2.10(a) of this rule, the following prohibitions and requirements apply to advertising Cannabis or Cannabis Products:

- (a) Cannabis Establishments are prohibited from using objects, such as toys, inflatables, movie characters, cartoon characters, child-friendly depictions of food or other consumables, or include any other display, depiction, or image designed in any manner likely to be appealing to minors or anyone under 21 years of age. This includes, but is not limited to, brand logo development and any advertising used for the purposes of marketing the licensee's dispensary and/or products.
- (b) Cannabis Establishments are prohibited from advertising or promoting in a manner that is false, untrue, or misleading.
- (c) Cannabis Establishments are prohibited from including in its advertising any statement concerning a brand or product that is inconsistent with any statement on the labeling thereof.
- (d) Websites for Cannabis Establishments must have age-gating.
- (e) Social media accounts for Cannabis Establishments may only promote products using links to their age-gated websites.

2.2.12 Audience Composition Presumptions for Advertising

When considering whether a proposed advertisement meets the requirements of 7 V.S.A. § 864 and of this rule, the Board will make the following presumptions:

- (a) That more than 15% of the audience will be under 21 years of age, unless the prospective advertiser can show by a preponderance of the evidence that less than 15% of the audience is reasonably expected to be under 21 years of age. Evidence must include reliable, verifiable, and current audience composition data.
- (b) That the audience for any outdoor advertisement is the general public, and those under 21 years of age will have the same prevalence in that audience as they do in the general public, unless a prospective advertiser can demonstrate that an outdoor space will not be accessed by the general public and that those who can access it meet the audience metric of 7 V.S.A. § 864(c).

- (c) That, except for signage as defined in 7 V.S.A. § 861(2)(D), window displays, or items, text, or objects inside a retail Cannabis Establishment that are visible to a person standing outside the establishment are outdoor advertisements for the purposes of this rule.

2.2.13 Visitors

- (a) Visitors are only permitted to the extent provided for in this rule.
- (b) If this rule makes no provision for visitors at a type of Cannabis Establishment then visitors are not permitted at that type of Cannabis Establishment, provided that the following individuals may be admitted to Cannabis Establishments:
 - i. Contractors, or professional advisors such as lawyers or accountants, if they are accompanied by a Cannabis Establishment principal or employee who has an identification card issued pursuant to Rule 1.16;
 - ii. Persons entering for an educational purpose if they are accompanied by a Cannabis Establishment principal or employee who has an identification card issued pursuant to Rule 1.16;
 - iii. Board designees or other state and municipal officials; and
 - iv. Those making lawful deliveries pursuant to section 2.2.7 of this rule.
- (c) A Cannabis Establishment shall not permit a person under 21 years of age to enter a building or enclosure on the premises where Cannabis or Cannabis Product is located. The Cannabis Establishment is responsible for ensuring compliance with age limitations.
- (d) For home occupancy businesses, the provisions of this section apply only to the areas where Cannabis or Cannabis Product is kept, which must be secured in accordance with the provisions of this rule.
- (e) This section shall not be interpreted to limit the actions of emergency responders in the course of their duties.
- (f) This section 2.2.13 does not apply to retail Cannabis Establishments.

2.2.14 Inspections

Cannabis Establishments shall submit to inspections of their physical site of operations and their records upon request of the Board or a Board designee. Inspection may include uncompensated retention of product samples for laboratory analysis.

2.2.15 Inversion and Diversion from the Legal Market is Prohibited

No Cannabis Establishment may purchase or obtain Cannabis or Cannabis Products from an entity that is not licensed pursuant to Board Rule 1. Except for retail Cannabis Establishments, no Cannabis Establishment may sell or transfer Cannabis or Cannabis Products to any person other than a licensed Cannabis Establishment.

2.2.16 Compliance in Other Jurisdictions

To the extent the controller or principal of a licensee also controls or is a principal of a licensed Cannabis Establishment, or the equivalent of a Cannabis Establishment, in a different

jurisdiction, that Cannabis Establishment must remain in compliance with the laws and regulations of its jurisdiction.

2.2.17 Reporting Theft or Loss

- (a) Cannabis Establishments must report theft of Cannabis or Cannabis Product to the Board immediately after discovery of the theft and enter the associated loss into the Inventory Tracking System. Losses in excess of \$1,000 must be reported to State or local law enforcement.
- (b) Cannabis Establishments must enter any loss of Cannabis or Cannabis Product into the Inventory Tracking System.

2.2.18 Co-Location

Cannabis Establishments may operate at the same location, subject to express Board approval and contingent upon the following conditions:

- (a) The co-located operation is not in violation of any local ordinances or regulations.
- (b) Each Cannabis Establishment operating at the same location shall do all the following:
 - i. Have distinct and identifiable spaces, areas, or plots, with each licensee operating in its own separate space, area, or plot.
 - ii. Post notice of its license in its distinct area, space, or plot.
 - iii. Maintain all the business operations, compliance requirements, and record-keeping that a Cannabis Establishment would maintain if it were operating in its own location.
 - iv. Otherwise comply with the provisions in the relevant statutes and these rules.
- (c) Co-located Cultivation Cannabis Establishments must not exceed the plant canopy limit applicable to the largest open tier, provided that the Board retains discretion to waive this limit.
- (d) Co-located cultivation Cannabis Establishments must utilize the security measures that would be required if the combined plant canopy of all the co-located cultivators were treated as belonging to a single Cannabis Establishment.
- (e) Co-located Cannabis Establishments that include non-cultivation licensees must utilize the security measures that are the most stringent required of any one of the co-located establishments, as provided by this Rule.
- (f) No person may operate in a manner that has the effect of subverting 7 V.S.A. § 901(d)(3)(A) or any other licensure requirements contained in 7 V.S.A. chapter 33 or Board Rule 1, and no person shall exercise control over a Cannabis Establishment without the disclosures required in Board Rule 1.4. At its discretion the Board may require additional information from Cannabis Establishments to ensure compliance with this section.
- (g) Multiple retail Cannabis Establishments may not operate at the same location, except that retailers may co-locate to the extent one retailer is providing a mentorship or accelerator program for another.

This section does not apply to dispensaries, which are governed by section 2.10.3 of this rule and by Rule 3.

2.2.19 Adulterated Cannabis and Cannabis Product

- (a) Licensees must abide by all orders of the Board issued pursuant to 7 V.S.A. § 904(e)(1) and Board Rule 4. All licensees shall make a prompt report to the Board upon discovery of adulterated Cannabis or Cannabis Product, regardless of cause or fault.
- (b) Cannabis or Cannabis Product adulterated due to the willful or intentional misuse of a pesticide must be reported to the Board and destroyed in accordance with section 2.2.8 of this rule.
- (c) If Cannabis or Cannabis Product is found to contain threshold levels of Aspergillus, a label so indicating must travel with the product, and appropriate steps shall be taken to make aware those individuals who may be exposed. Remediation of Cannabis or Cannabis Product found to contain threshold levels of Aspergillus may be attempted if performed in conformity with the Aspergillus testing and remediation pathway set forth in Board guidance.
- (d)) If Cannabis or Cannabis Product is unintentionally adulterated, and the adulterant is a pesticide approved for use with food crops, a license holder may take steps to remediate the Cannabis or Cannabis Product.
 - i. Remediation may include refinement into manufactured product using a licensed manufacturer.
 - ii. If the licensee chooses to remediate, a new test sample shall be submitted to a licensed laboratory, which may include the initial laboratory. Any Cannabis or Cannabis Product may be remediated a maximum of two times. Any Cannabis or Cannabis Product that fails any test after the second remediation attempt may not be sold, transferred, or otherwise dispensed. The licensee shall destroy any such Cannabis or Cannabis Product in accordance with Section 2.2.8 of this rule.
 - iii. Product Certificates of Analysis disclosed to consumers must include pre- and post-remediation results, and no licensee shall request, induce, or encourage a laboratory to disregard a valid analysis with the purpose or effect of disguising product remediation.

2.2.20 Cannabis Establishment Identification Card Requirement

- (a) All persons working at a Cannabis Establishment must have an identification card issued by the Board pursuant to Rule 1.16.
- (b) Any person working at a Cannabis Establishment must have their identification card in their possession at all times while working at the Cannabis Establishment.

2.2.21 Product Licensing

Cannabis Establishments must license (“register”) Cannabis and Cannabis Products in accordance with 7 V.S.A. § 910(9) and policy issued by the Board. Only products bearing a valid registration may be purchased, offered for sale, or sold by a retail Cannabis Establishment.

2.2.22 Security Requirements for Licensees not Otherwise Specified

The Board will establish reasonable security requirements through the adoption of a policy for any license type that may be established by the legislature and is not otherwise contemplated by this rule.

2.2.23 One Location Rule

Licensees will be in compliance with the one location requirement of 7 V.S.A. § 901(d)(3)(A) only if the physical site of operations for a Cannabis Establishment is within two abutting SPANs. A SPAN will be considered abutting if it shares a boundary with a SPAN, or if it is adjacent to a SPAN and is separated only by a river, stream, or public highway.

2.3 Regulations Applicable to Cultivators

The requirements in this section apply to Cannabis Establishments with any cultivator license.

2.3.1 Pesticides

Cultivators shall abide by the rules and guidelines regarding pesticides that are adopted by the Vermont Agency of Agriculture, Food and Markets.

Cannabis Establishments with a cultivator license shall maintain a record of pesticide usage in such a way that it can be readily accessed from the physical site of operations upon the request of the Board or Board designee.

2.3.2 Visitors to Cultivation Sites

- (a) Visitors must be escorted at all times by a Cannabis Establishment employee who has an identification card issued pursuant to Rule 1.16.
- (b) Visitors may not consume cannabis in any form on site.
- (c) Visitors may not purchase cannabis on site, provided that this shall not be interpreted to prohibit sales at retail Cannabis Establishments that are co-located with a cultivation Cannabis Establishment in accordance with all applicable regulations.
- (d) A Cannabis Establishment shall not permit a person under 21 years of age to enter a building or enclosure on the premises where cannabis is located. The Cannabis Establishment is responsible for ensuring compliance with age limitations.
- (e) Cannabis Establishments must issue identification badges to visitors, provided that this provision does not apply to any tier 1 cultivation licensees. The badge will:
 - i. have a design approved by the Board;
 - ii. be visibly displayed while on the physical site of operations; and
 - iii. be returned upon exit.
- (f) Visitors must be logged with time of entry and exit, and the log will be made available to the Board or a Board designee upon request. Logs must be retained for 1 calendar year.

- (g) A safety protocol must be established by license holder before allowing visitors.
- (h) Subsections (e) through (g) of this section do not apply to the following individuals:
 - i. Contractors, or professional advisors such as lawyers or accountants, if they are accompanied by a Cannabis Establishment principal or employee who has an identification card issued pursuant to Rule 1.16;
 - ii. Board designees or other state and municipal officials; and
 - iii. Those making lawful deliveries pursuant to section 2.2.7 of this rule.
- (i) For home occupancy businesses, the provisions of this section 2.3.2 apply only to the areas where Cannabis is kept, which must be secured in accordance with the provisions of this rule.
- (j) This section shall not be interpreted to limit the actions of emergency responders in the course of their duties.

2.3.3 Testing

Cultivators must have their products tested in accordance with rules and guidance established in section 2.9 of this rule. Testing for potency of a crop must take place prior to packaging for transfer to another licensee. Other testing will occur in accordance with the relevant regulations and policies. All test results shall be saved for no less than 1 year.

2.3.4 Cultivator Processing

- (a) The word “process” in 7 V.S.A. § 904(a) means:
 - i. packaging or wrapping Cannabis flower in any manner that Cannabis flower may be transported or consumed.
 - ii. Trimming Cannabis flower, or other activities necessary for preparing Cannabis flower for packaging or transport.
- (b) The word “process” in 7 V.S.A. § 904(a) does not mean transforming Cannabis flower into another substance through manufacturing.
- (c) A cultivator may possess Cannabis Products, consistent with 7 V.S.A. § 904(a)(3), only if manufactured from the cultivator’s own Cannabis and in a form fit for registration and retail sale.

2.3.5 Cultivator Packaging

- (a) Except as provided in subsection (b) of this section 2.3.5, when a cultivator transfers Cannabis to another licensee packaging must meet the requirements of:
 - i. Section 2.2.9(a) of this rule; and
 - ii. 7 V.S.A. § 904(d)(1).
- (b) When a cultivator transfers Cannabis to a retail licensee and the Cannabis is intended for consumer purchase as packaged, packaging must:
 - i. include the cultivator’s license number and process lot number;
 - ii. Meet the requirements of section 2.2.9 of this rule;
 - iii. Meet the requirements of 7 V.S.A. § 904(d)(1);
 - iv. Meet the requirements of 7 V.S.A. § 907(c); and

- v. Include testing results, which can be conveyed using a website address, QR code, or similar means of providing access to information accessible on a website.

2.3.6 Cultivator Inspections

- (a) The Board or Board designee will conduct inspections, which may or may not be noticed in advance, to ensure compliance with these rules and Title 7, Chapter 33 of the Vermont Statutes.
- (b) Inspections may include:
 - i. collecting samples;
 - ii. taking photographs or video;
 - iii. talking to employees, principals, or owners;
 - iv. inspecting records;
 - v. inspecting equipment or vehicles used for growing, processing, or transporting Cannabis; and
 - vi. taking any other reasonable measure to evaluate compliance.
- (c) Information obtained from inspections at non-cultivator Cannabis Establishments may inform inspections at cultivator licensees.
- (d) Cannabis samples obtained during inspections may be used to assess consumer safety issues and may also be used by the Board for genetic testing and research into taxonomic determinations of cannabis cultivars or varieties grown.

2.3.7 Sanitation

To the extent not already required by section 2.2.4 of this rule, cultivators will ensure:

- (a) that any illness or bodily injury to an individual at a cultivation site does not become a source of microbial contamination to a Cannabis crop;
- (b) that litter and waste are properly removed so they do not become a source of microbial contamination; and
- (c) sufficient sanitation to minimize potential for attracting, breeding, or harboring pests.

2.3.8 Vendor, Employee, and Competition Samples

- (a) Vendor samples must meet the following requirements:
 - i. Cultivators may provide a sample of flower to another licensee, provided that such samples may not be consumed on any licensed premises. Samples must be tested in accordance with rules and guidance established in section 2.9 of this rule.
 - ii. Samples will be limited to the following aggregate amounts in a calendar month: four grams per strain of flower per vendor, and no more than seven strains of flower per vendor.
 - iii. Vendor samples must be labeled: VENDOR SAMPLE NOT FOR RESALE.
 - iv. Samples must be designated and identified in the Inventory Tracking System.
- (b) Employee Samples must meet the following requirements:

- i. Cultivators may provide samples to employees to determine whether to make product available to sell, provided that such samples may not be consumed on any licensed premises.
 - ii. Samples will be limited to the following aggregate amounts in a calendar month: four grams per strain of flower per employee, and no more than seven strains of flower per employee.
 - iii. Employee samples must be labeled: QUALITY CONTROL SAMPLE NOT FOR RESALE.
 - iv. Samples must be designated and identified in the Inventory Tracking System.
- (c) Competition samples must meet the following requirements:
- i. Cultivators may provide samples to bona fide evaluative contests with the express written authorization of the Board.
 - ii. Samples will be limited to the following aggregate amounts per evaluative contest: eight grams per strain of flower, and no more than seven strains of flower.
 - iii. Competition samples must be labeled: COMPETITION SAMPLE NOT FOR RESALE.
 - iv. Samples must be designated and identified in the Inventory Tracking System.
- (d) For cannabis products, Board guidance specifies milligram equivalence based upon product type and serving units.

2.3.9 Cannabis Cultivation for Personal Use

A cultivator may grow Cannabis for their personal use in accordance with 18 V.S.A. § 4230e. A Cannabis plant grown for this purpose must be physically separated from the cultivator's site of commercial operations and unambiguously labeled to enable a Board designee to readily identify and distinguish personal-use crop. No plant grown for personal use may supply Cannabis to the regulated market, and Cannabis grown for personal use must not be entered into the Inventory Tracking System.

2.4 Regulations Applicable to Outdoor and Mixed Cultivators

The requirements in this section apply to Cannabis Establishments with an outdoor or mixed cultivator license.

2.4.1 Outdoor Security Management Practices

The Board deems the following to be Outdoor Security Management Practices:

- (a) fencing;
- (b) video surveillance system with unobscured views of area;
- (c) alarm system;
- (d) motion activated flood-light, which may face away from the plant canopy;
- (e) security services, which may include the physical presence of a security guard; and
- (f) controlled point of access.

2.4.2 Standards For Outdoor Security Management Practices

- (a) Fencing, physical obstacles, electronic surveillance, or other context-specific measures must be sufficient to deter unauthorized entry to any cultivation areas.
- (b) Electronic security measures and security services, if applicable pursuant to section 2.4.3, must be operating for no less than the three-week period preceding a harvest, as well as while drying, curing, or storing a harvested crop.
- (c) Video and photographic surveillance equipment must:
 - i. retain footage for a minimum of 30 days;
 - ii. include date and time stamps on images without significantly obscuring the images;
 - iii. be capable of producing usable images in the lighting conditions in which it is placed;
 - iv. be placed in a way that allows for the clear and certain identification of any persons or activities at or in the immediate vicinity of any Cannabis or Cannabis Product, provided that video recordings may be motion-activated; and
 - v. be exportable and transferrable to standard computing equipment and have a resolution of 720p or greater or the equivalent of such a resolution.

2.4.3 Minimum Outdoor Security Management Practices

Outdoor cultivators and the outdoor portion of a mixed cultivator's crop must implement Outdoor Security Management Practices to the extent required in this section unless they apply to the Board for a variance from the fencing requirement, which the Board will consider on a case-by-case basis.

- (a) Tier 1 outdoor cultivators and mixed cultivators must utilize at least 1 of the Outdoor Security Management Practices in section 2.4.1.
- (b) Tier 2 outdoor cultivators must utilize at least 2 of the Outdoor Security Management Practices in section 2.4.1.
- (c) Tier 3 outdoor cultivators must utilize at least 3 of the Outdoor Security Management Practices in section 2.4.1.
- (d) Tier 4 outdoor cultivators must utilize at least 4 of the Outdoor Security Management Practices in section 2.4.1.
- (e) Tier 5 outdoor cultivators must utilize at least 5 of the Outdoor Security Management Practices in section 2.4.1.
- (f) Tier 6 outdoor cultivators must utilize all of the Outdoor Security Management Practices in section 2.4.1.

2.4.4 Visibility From a Public Road

If a crop would be visible from a public road, as defined in 24 V.S.A. § 4303(33), a physical barrier of concealment must be created such that the crop is not visible from the public road. Such barriers may include, but are not limited to, fencing, hedges, or building structures.

2.4.5 Additional Requirements

- (a) At the Board’s discretion, a physical site of operations may be inspected by a Board designee to determine security risks and visibility from a public road either before or after the Board has granted a license. The Board retains the right to require additional Outdoor Security Management Practices or barriers subsequent to such an inspection.
- (b) If a Cannabis Establishment experiences more than one incident of theft in a twelve-month period, additional Outdoor Security Management Practices may be required at the Board’s discretion.

2.4.6 Security for Drying, Curing, and Storage

Security for Cannabis drying, curing, and storage must meet the requirements of section 2.5.1 of this rule.

2.4.7 Allowance for Winter Indoor Storage

Mother plants, Cannabis plant-seeds, and clones in propagation or vegetation phase of development may be kept indoors during winter months when outdoor cultivation is not possible, provided that outdoor cultivation licensees may not cultivate Cannabis indoors.

2.5 Regulations Applicable to Indoor and Mixed Cultivators

The requirements in this section apply to Cannabis Establishments with an indoor or mixed cultivator license.

2.5.1 Security

Indoor cultivators and the indoor portion of a mixed cultivator’s crop must utilize the following security measures:

- (a) All perimeter doors and windows must be locked, and only individuals with a Cannabis Establishment identification card, granted in accordance with Board Rule 1.16, may have keys or a key equivalent.
- (b) All perimeter doors and windows must have operational security alarms, provided that Tier 1 and mixed cultivators are not required to have security alarms unless the Board requires it, which the Board retains the discretion to do on a case-by-case basis.
- (c) Video surveillance with continuous monitoring of any space that contains Cannabis, whether growing or harvested, or Cannabis Products. Video surveillance must meet the standards of section 2.4.2(c) of this rule.

2.5.2 Security for Drying, Curing, and Storage

Security for Cannabis drying, curing, and storage must meet the requirements of section 2.5.1 of this rule.

2.5.3 Energy Standards for Buildings

- (a) Vermont Commercial Building Energy Standards (CBES) will apply to indoor cultivation facilities in the following areas to the same extent they would for any other commercial building:
 - i. The building envelope must meet CBES for insulation.
 - ii. Non-cultivation lighting must meet CBES for new buildings and retrofits.
 - iii. Ventilation must meet CBES.
 - iv. HVAC systems must meet CBES for efficiency, except that HVAC equipment used for cultivation does not need economizers and heat recapture.
- (b) Greenhouses must meet CBES for HVAC equipment efficiency, except that HVAC equipment used for cultivation does not need economizers and heat recapture.
- (c) Fans and clean water pumps at indoor cultivation facilities should, at the date of equipment purchase, comply with the most recent energy efficiency standards adopted by the federal Department of Energy.

2.5.4 Energy Standards for Lighting

Cannabis Establishments shall have one year from the date of licensure to demonstrate compliance with the following requirements:

- (a) Lighting for indoor cultivation must have a minimum of 1.9 Photosynthetic Photon Efficacy (PPE).
- (b) Lighting for greenhouses:
 - i. The envelope must have a minimum u-factor of 0.7.
 - ii. If a greenhouse uses lighting fixtures to supplement the sun, the cultivation lighting must have a minimum of 1.7 PPE, except that if a greenhouse has a total connected lighting load of less than 40 kilowatts it is exempt from lighting requirements.

2.5.5 Energy Standards for Dehumidification

Cannabis Establishments shall have one year from the date of licensure to demonstrate compliance with the following requirements:

One of the following dehumidification systems must be used for indoor cultivation:

- (a) Standalone dehumidifiers must meet the following minimum integrated energy factors:
 - i. Minimum integrated energy factor of 1.77 L/kWh for product case volumes of 8.0 cubic feet or less, or
 - ii. Minimum integrated energy factor of 2.41 L/kWh for product case volumes greater than 8.0 cubic feet.
- (b) Integrated HVAC system with on-site heat recovery designed to fulfill to least 75 percent of the annual energy for dehumidification reheat.
- (c) Chilled water system with on-site heat recovery designed to fulfill at least 75 percent of the annual energy for dehumidification reheat.

- (d) Solid or liquid desiccant dehumidification system for system designs that require dewpoint of 50° Fahrenheit or less.

2.5.6 Energy Usage Reporting and Reduction Efforts

License holders shall retain for at least 24 months electric utility bills for all parcels under their control. Bills and usage data shall be available to the Board on request.

2.6 Regulations Applicable to Manufacturers

The requirements in this section apply to Cannabis Establishments with a manufacturing license.

Manufacturers shall abide by any requirements and limitations contained in 7 V.S.A. § 881(a)(3), 7 V.S.A. § 868, and 18 V.S.A. § 4230h, in addition to the requirements of this section.

2.6.1 Manufacturer Security and Sanitation

- (a) Manufacturers must meet all requirements of section 2.5.1 of this rule.
- (b) A manufacturer's physical site of operations must conform to generally accepted sanitation and hygiene standards and must have plumbed potable and hot water, appropriate drainage, and hardwired electrical service.
- (c) Manufacturing may not occur in a home kitchen, meaning a space located in a residence that is used for the storage, cooking, preparation, or consumption of food by the building's inhabitants;
- (d) New inventory must be reported within seven days of manufacture.

2.6.2 Testing

Manufacturers must have their products tested in accordance with rules and guidance established in section 2.9 of this rule. Test results shall be saved for no less than one year.

2.6.3 Manufacturer Packaging

- (a) Except as provided in subsection (b) of this section 2.6.3, when a manufacturer transfers Cannabis to another licensee packaging must meet the requirements of section 2.2.9(a) of this rule.
- (b) When a manufacturer transfers Cannabis Product to a retail licensee and the Cannabis Product is intended for consumer purchase as packaged, packaging must meet the following requirements:
 - i. include the manufacturer's license number and process lot number;
 - ii. All requirements of section 2.2.9 of this rule.
 - iii. All requirements contained in 7 V.S.A. § 881(a)(3)(A), (B), and (C).
 - iv. For consumable Cannabis Products packaging must include:
 - 1. the number of servings in the package and serving size, provided that servings must be easy for a consumer to measure, either by clear and

- visible marking on the Cannabis Product or physical separation of servings; and
- 2. a warning that the impairment effects of the Cannabis Product may be delayed by two hours or more.
- v. For non-consumable Cannabis Products packaging must include:
 - 1. the ingredients used in production, including but not limited to scents or other additives, and common irritants warnings; and
 - 2. notice that the product is not for consumption.
- vi. Powdered products must be packaged in single servings.
- vii. Disposable vape pens or other disposable electronic smoking devices are prohibited. Disposable vape pens are all-in-one, pre-charged vape pens that include a battery and are not rechargeable; do not allow for refilling of e-liquids, oils, extracts, or distillates; or are otherwise unsuited for refill and reuse.

2.6.4 Additives

- (a) For Cannabis Products intended for oral ingestion, such as food, drinks, oil-based tinctures, and similar products, manufacturers may use any additive that the Food and Drug Administration has deemed Generally Recognized as Safe, unless the additive is otherwise prohibited or limited by law or rule.
- (b) For Cannabis Products intended for inhalation, the Board will maintain a schedule of approved and disapproved ingredients that will be readily available to the public.
- (c) The total terpene content of a Cannabis Product intended for inhalation or vaporized formulation may not exceed 10 percent by weight. All terpenes added to a Cannabis Product must be naturally occurring in the cannabis plant. Any concentrated terpenes added to a Cannabis Product shall be disclosed on the label. This rule, 2.6.4(c), may be waived if a manufacturer demonstrates to the Board's satisfaction that excess terpene content is not the result of additives.
- (d) Manufacturers shall abide by any prohibition contained in 7 V.S.A. § 868.
- (e) Notwithstanding subsections (a) & (b) of this rule, 2.6.4, hemp flower or hemp products may be added a Cannabis Product if:
 - i. tested prior to introduction into the Cannabis Product for pathogens, pesticides, THC concentration, and other cannabinoid concentration, by a cannabis testing laboratory licensed and overseen by the Board, in conformity with relevant guidance, and
 - ii. resulting hemp-additive CoAs are made available to the Board at the point of product registration and to the consumer when accessing the product Cannabis Product CoA; and
 - iii. hemp additives are clearly identified on the Cannabis Product label by form, amount, and source.

2.6.5 Records

Manufacturers shall maintain the following records in such a way that they can be readily accessed from the physical site of operations upon the request of the Board or Board designee:

- (a) Records of purchases from any manufacturer or supplier of an ingredient, additive, component, or other substance, compound, or material obtained by the manufacturer.
- (b) Records of the name and business address of the manufacturer of any cartridge, battery, atomizer coil, hardware, device, or other component in vaporized products.
- (c) A copy of a Certificate of Analysis for each thickening agent, thinning agent, or terpene used in production. These Certificates of Analysis shall be provided to a retailer or wholesaler upon request.

2.6.6 Vendor and Employee Samples

- (a) Vendor samples must meet the following requirements:
 - i. Manufacturers may provide a sample of Cannabis Product to another licensee, provided that such samples may not be consumed on any licensed premises. Samples must be tested in accordance with rules and guidance established in section 2.9 of this rule.
 - ii. Samples will be limited to the following aggregate amounts in a calendar month: Five grams of concentrate or extract, or 100 servings of edibles per vendor, so long as the tetrahydrocannabinol content of each individual edible sample does not exceed five milligrams per serving and is within any applicable statutory or regulatory potency levels.
 - iii. Vendor samples must be labeled: VENDOR SAMPLE NOT FOR RESALE.
 - iv. Samples must be designated and identified in the Inventory Tracking System.
- (b) Employee Samples must meet the following requirements:
 - i. Manufacturers may provide a sample of Cannabis Product to an employee to determine whether to make a product available to sell, provided that such samples may not be consumed on any licensed premises.
 - ii. Samples will be limited to the following aggregate amounts in a calendar month: five grams of concentrate or extract, or 100 servings of edibles per employee, provided that the tetrahydrocannabinol content of each individual edible sample does not exceed five milligrams per serving and is within any applicable statutory or regulatory potency levels.
 - iii. Employee samples must be labeled: QUALITY CONTROL SAMPLE NOT FOR RESALE.
 - iv. Samples must be designated and identified in the Inventory Tracking System.

2.7 Regulations Applicable to Wholesalers

The requirements in this section apply to Cannabis Establishments with a wholesaler license.

2.7.1 Wholesaler Security

- (a) Wholesalers must meet all requirements of section 2.5.1 of this rule.

- (b) Manufactured Cannabis Product, but not Cannabis flower, must be kept in a reasonably secure locked space.

2.7.2 Wholesaler Processing

- (a) The word “process” in 7 V.S.A. § 905(b) means:
 - i. Packaging or wrapping Cannabis flower in any manner that Cannabis flower may be transported or consumed.
 - ii. Trimming Cannabis flower, or other activities necessary for preparing Cannabis flower for packaging or transport.
 - iii. Packaging Cannabis Products in any manner that Cannabis Products may be packaged.
- (b) The word “process” in 7 V.S.A. § 905(b) does not mean transforming Cannabis flower into another substance through manufacturing.

2.7.3 Wholesaler Packaging

- (a) Except as provided in subsections (b) and (c) of this section 2.7.3, when a wholesaler transfers Cannabis or Cannabis Product to another licensee packaging must meet the requirements of section 2.2.9(a) of this rule.
- (b) When a wholesaler transfers Cannabis to a retail licensee and the Cannabis is intended for consumer purchase as packaged, packaging must meet the requirements of section 2.3.5(b) of this rule.
- (c) When a wholesaler transfers Cannabis Products to a retail licensee, and the Cannabis Products are intended for consumer purchase as packaged, packaging must meet the requirements of section 2.6.3(b) of this rule.

2.8 Regulations Applicable to Retailers

The requirements in this section apply to Cannabis Establishments with a retailer license.

2.8.1 Buffer Zones

Retail Cannabis Establishments shall not be located at a place where the sale of a regulated drug would constitute a violation of 18 V.S.A. § 4237(d). Point-to-point distance shall be measured from the closest boundary of the retail sales area open to the public to the closest boundary of school property.

2.8.2 Retail Security

Retailers must meet all requirements of section 2.5.1 of this rule, provided that retailers may have unlocked doors to the extent necessary to allow customer access, along with the following additional requirements:

- (a) Alarm systems shall be composed of industry-standard commercial-grade components, and shall be designed and installed by an alarm installation company with expertise in industry standard commercial-grade alarm systems.

- (b) Point-of-sale systems must report sales in real time to the Inventory Tracking System application programming interface (API); provided, however, that systems in place prior to the effective date of this rule 2.8.2(b) may be retained until obsolete if capable of reporting data at least every 24 hours.
- (c) Video surveillance must include point-of-sale areas, all entrances, exits, automated teller machines, and any area where Cannabis or Cannabis Product is stored or handled.
- (d) Strict access controls to areas where Cannabis and Cannabis Product is stored or handled.
- (e) Video footage must be kept for at least 30 days, and video recording devices must be continuously recording.
- (f) Employees shall wear identification badges that clearly identify them as employees while on duty.
- (g) Upon request, a retailer shall make available to the Board or Board designee all information related to security alarm systems, monitoring, alarm activity, maps of camera locations and camera coverage, surveillance equipment maintenance log, authorized user list, operation instructions, and any other relevant information.
- (h) The number of customers in the retail area at any given time may not be more than can be easily monitored by the employees present in the retail area.
- (i) Outdoor trash receptacles must be covered and locked.
- (j) The requirements of 7 V.S.A. § 881(a)(5), to the extent not already covered by this rule.

2.8.3 Age Verification and Customer Personal Information

- (a) An individual who has been issued an identification card pursuant to Board Rule 1.16 shall enforce subsection (c) of this rule 2.8.3 by visually observing all visitors to a retail cannabis establishment and requiring an acceptable form of identification of any reasonably appearing to be twenty-seven years of age or younger.
- (b) “Acceptable form of identification” shall mean a photo identification issued by a government, and it must be current and valid.
- (c) No individual shall be admitted unless the retailer has verified that the acceptable form of identification matches the visitor and that the visitor is 21 years of age or older.
- (d) Prior to completing a transaction for the purchase of Cannabis or a Cannabis Product, an individual who has been issued an identification card pursuant to Board Rule 1.16 shall inspect the visitor’s proof of identification and determine the visitor’s age.
- (e) A retailer may not acquire or record visitor personal information other than information typically required by a retail transaction, which can include information to determine the visitor’s age.
- (f) A retailer may not record or retain any additional personal information from a visitor without the visitor’s permission.
- (g) Retailers shall refuse to sell to any visitor who is unable to produce valid proof of their age using an acceptable form of identification.

2.8.4 Retailer Packaging

- (a) Packaging for all Cannabis and Cannabis Products sold in retail establishments must meet the following requirements:
 - i. All requirements contained in section 2.2.9 of this rule.

- ii. Packaging must have information regarding the test results of the Cannabis or Cannabis Product, provided that packaging may convey such information using a website address, QR code, or similar means of providing access to information available on a website.
- (b) For Cannabis, packaging must meet the requirements contained in section 2.3.5(b) and 907(c) of this rule in addition to subsection (a) of this section 2.8.4.
- (c) For Cannabis Products, packaging must meet the requirements contained in section 2.6.3(b) of this rule in addition to subsection (a) of this section 2.8.4.
- (d) Any hemp product that has not been tested and duly registered as a Cannabis Product must be clearly labeled and situated in view of a consumer advisory stating “Hemp products are not cultivated under conditions monitored by the Cannabis Control Board and are not subject to Vermont testing requirements.”

2.8.5 Collection and Reuse of Consumer Packaging Waste

- (a) Retail Cannabis Establishments may collect, reuse, and recycle consumer packaging waste. Only retail Cannabis Establishments may collect consumer packaging waste for reuse and recycling. Such Cannabis Establishments may collect consumer packaging waste from consumers or from other licensees.
- (b) Any receptacles used for collection of Consumer Packaging Waste shall be located inside the Cannabis Establishment such that they are subject to the same security measures as the rest of the establishment. They shall be reasonably supervised by a licensee to ensure any consumer packaging waste is only removed by a licensee.
- (c) Any receptacles used for collection of consumer packaging waste shall be labeled. The label must at least identify the receptacle as “consumer packaging waste.” A licensee may choose to include additional information on the receptacle label.
- (d) Licensees collecting consumer packaging waste pursuant to this section 2.8.5 must ensure at a minimum that any remaining Cannabis or Cannabis Product in consumer packaging waste is removed and destroyed to the extent practicable. The waste disposal requirements of section 2.2.8 of this rule shall apply.
- (e) Once any remaining Cannabis or Cannabis Product has been removed and destroyed pursuant to these rules, a licensee may:
 - i. Reuse consumer packaging waste if the packaging has been sanitized and disinfected.
 - ii. Transfer consumer packaging waste to another licensee for reuse or may transfer consumer packaging waste to a person for recycling or reuse.
- (f) A Cannabis Establishment that is reusing consumer packaging waste must sanitize and disinfect the packaging.
- (g) Child-resistant containers may be reused as child-resistant containers to the extent they continue to meet the requirements of 7 V.S.A. § 861(16).

2.8.6 Standard Operating Procedures

Retailers must maintain standard operating procedures regarding the following subjects in such a way that they can be readily accessed from the physical site of operations upon the request of the Board or Board designee :

- (a) security measures;
- (b) Inventory Tracking contingency procedures in case of point-of-sale failure or API disconnection, including provisions for data collection;
- (c) employee security policies, including personal safety and crime prevention techniques;
- (c) description of establishment's hours of operation and after-hours contact information for management;
- (d) plan for storage of inventory;
- (e) procedures to ensure accurate recordkeeping, including inventory protocols and compliance with the Inventory Tracking System;
- (f) quality control plans;
- (g) emergency procedures in case of a fire or other emergency;
- (h) how confidential information will be maintained; and
- (i) policy for immediate dismissal of an employee who has diverted Cannabis or Cannabis Product or engaged in unsafe practices.

2.8.7 Retailer Samples

Retailers may accept vendor samples as permitted by sections 2.3.9 and 2.6.6 of this rule but are prohibited from offering such samples for sale. Acceptance of such samples must be logged in the Inventory Tracking System.

2.8.8 Employee Samples

- (a) Retailers may provide a sample of Cannabis or Cannabis Product to an employee to determine whether to make a product available to sell, provided that such samples may not be consumed on any licensed premises.
- (b) Samples will be limited to the following aggregate amounts in a calendar month: five grams of concentrate or extract, or 100 servings of edibles per employee, provided that the tetrahydrocannabinol content of each individual edible sample does not exceed five milligrams per serving and is within any applicable statutory or regulatory potency levels.
- (c) Employee samples must be labeled: QUALITY CONTROL SAMPLE NOT FOR RESALE.
- (d) Samples must be designated and identified in the Inventory Tracking System.

2.8.9 Display Samples

Retailers may provide samples of Cannabis flower in enclosed containers for viewing or smelling by visitors. Such samples may not be touched by visitors or sold or transferred to visitors and their use and disposal must be tracked in the Inventory Tracking System.

2.8.10 Safety Information Flyer

Retailers shall display a safety information flyer created by the Board at the point of purchase, in accordance with 7 V.S.A. § 907(d). The Board shall make the flyer readily available to the public and to retail establishments for their use. The Board may update the flyer at any time and will provide notice to licensed retail establishments when it makes such an update.

2.8.11 Limited-contact Transactions

A retail establishment may offer limited-contact transactions subject to the following requirements:

- (a) Prior to offering limited-contact transactions, an establishment in a municipality with a local control commission shall obtain authorization of the local control commission, or if the municipality has none, of appropriate municipal authorities;
- (b) Prior to offering limited-contact transactions, an establishment must confirm that the activity is within the scope of its coverage and shall update its governing documents with acceptable written confirmation from the insurer;
- (c) Sales must be transacted electronically or telephonically prior to the customer's arrival at the retail cannabis establishment;
- (d) Product exchange may occur only in a secured, monitored location subject to video and closed-circuit observation, as further specified in a security plan acceptable to the Board that is duly filed and continuously maintained as a governing document;
- (e) Limited-contact transactions must occur only during normal business hours, and no cannabis establishment employee may leave the interior perimeter of the retail sales area unless actively observed by a second on-duty employee;
- (f) Product transfer may be effectuated only by a person holding a valid employee identification card who has contemporaneously inspected an acceptable form of identification to confirm the purchaser's identity and age, and in case of medical product transactions, the validity of the purchaser's Patient or Caregiver identification card; and
- (g) Cannabis or Cannabis Product shall be transferred in sealed plain paper packaging.

2.8.12 Medical Use Endorsement

(a) Delivery

A retail establishment with a medical use endorsement electing to deliver directly to a registered Patient or their Caregiver shall comply with Board Rule 3.5.2.

(b) Employee training

In addition to complying with all employee training required pursuant to Rule 1, employees who interact with a registered Patient or Caregiver shall complete all additional trainings required by the Board regarding patient confidentiality, inventory tracking, record-keeping, and the probable effects of the Cannabis and Cannabis Products available for Patient purchase.

(c) Inventory management

A retail establishment with a medical use endorsement shall:

- i. ensure cannabis products that are prohibited for sale to nonmedical customers pursuant to subdivisions 7 V.S.A. §§ 868(a)(1) and (b)(1) are physically segregated from non-prohibited cannabis products and will only be sold to registered Patients directly or through their caregivers.
- ii. retain information regarding each sale of cannabis or cannabis products that is exempt from general sales and use tax imposed by chapter 233 of Title 32 or the cannabis excise tax imposed by chapter 207 of Title 32 as required by the Commissioner of Taxes.

(d) Testing

Cannabis and cannabis products must comply with all testing requirements found in Board Rule 2.9 and related guidance.

(e) Labeling

In addition to complying with all labeling requirements found in Board Rule 2, cannabis and cannabis products that are prohibited for sale to nonmedical customers pursuant to subdivisions 7 V.S.A. §§ 868(a)(1) and (b)(1) must include a warning label such that a reasonable person would not confuse them with a non-prohibited product.

2.8.13 Clones

Retailers may sell clones to the extent permitted in guidance adopted by the Board.

2.8.14 Ownership of Inventory

At the time of transfer, retailers must take ownership of all Cannabis and Cannabis Products acquired from other licensees. Consignment is prohibited.

2.9 Regulations Applicable to Testing Laboratories, Cultivators, and Manufacturers

The requirements in this section apply to Cannabis Establishments with a testing laboratory license, as well as to cultivators and manufacturers who must have their product tested in accordance with the standards in this section.

2.9.1 Testing Requirements

Testing terms, processes, and requirements, including representative sampling requirements, are set out in guidance approved by the Board and published to the Board's website. The Board may, in its sole discretion, require additional testing or establish mandatory reporting thresholds appropriate to protect the public health and safety or to monitor pathogen transmission.

Unless necessary to address a compelling risk to the public health and safety, amendments to Board testing guidance shall be publicly noticed at least 90 days before taking effect.

Laboratories should have capacity to perform, and cultivators and manufacturers must undertake, the following analyses, based upon product form:

- (a) General harvest lot parameters
 - i. All cultivars must be individually tested for potency and pathogens; Smokable flower must be tested for water activity; and
 - ii. Up to five simultaneously submitted cultivars may be comingled by the laboratory for pesticide testing.
- (b) For mechanically extracted or infused process lots
 - i. Final potency of extract must be tested, and
 - ii. Harvest lot pesticide and pathogen COAs must travel with extract.
- (c) For solvent extracted process lots (EtOH, CO₂, Hydrocarbon), the following must be tested:
 - i. Pesticides;
 - ii. Residual solvents;
 - iii. Potency; and
 - iv. Heavy metals.
- (d) For manufactured process lots, COAs from all process lots in the manufacturing process lots must be associated with the manufacturing process lot.
- (e) For finished edible products, harvest lot or process lot COAs must travel with products, and the following must be tested:
 - i. Final product potency; and
 - ii. Potency consistency/homogeneity (tier and product dependent; consult guidance).

2.9.2 Potency Parameters

- (a) Cannabis must have no greater than a 20% variation from the label representation regarding total theoretical THC as defined by subsections (f) and (g) in this section 2.9.2, and other cannabinoids.
- (b) Cannabis Product with a label representation of between 0 milligrams to 10 milligrams of total cannabinoid content must have no greater than a 25% variation from the label representation.
- (c) Cannabis Product with a label representation of between 10 milligrams to 100 milligrams of total cannabinoid content must have no greater than a 20% variation from the label representation.
- (d) Cannabis Product with a label representation of greater than 100 milligrams of total cannabinoid content must have no greater than a 10% variation from the label representation.
- (e) Homogeneity must be established by beginning-middle-end testing, to be determined by batch size and performed in conformity with Board guidance.

In assessing potency, laboratories will use the following formulation:

- (f) Tetrahydrocannabinolic acid (THCA) is the precursor of delta-9 tetrahydrocannabinol (THC).
- (g) The laboratory determination of potency will be determined by total theoretical THC.
- (h) Total theoretical THC content is the maximum amount of possible delta-9 THC in a cannabis crop if total conversion from THCA to THC were to occur. The calculated amount of total theoretical THC is determined as follows:
 - i. 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.
 - ii. The following mathematical equation expresses this calculation:

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

2.9.3 Moisture Parameters

Moisture parameters will be set in accordance with guidance issued by the Board. Potency is always to be determined by dry weight.

2.9.4 Microbiological Parameters

The following human pathogens will be measured, and the limits set, in accordance with guidance issued by the Board.

- (a) Shiga, toxin producing escherichia coli (STEC) – Bacteria
- (b) Salmonella species – Bacteria
- (c) Aspergillus flavus, Aspergillus fumigatus, Aspergillus niger, Aspergillus terreus - Fungus

2.9.5 Metal Parameters

The following metals will be measured and the limits set in accordance with guidance issued by the Board.

Arsenic
Cadmium
Lead
Mercury
Chromium
Copper
Nickel
Zinc

2.9.6 Pesticides

Cultivators shall abide by the rules and guidelines regarding pesticides that are adopted by the Vermont Agency of Agriculture, Food and Markets.

2.9.7 Residual Solvent Parameters

Residual solvents will be measured and the limits set in accordance with guidance issued by the Board.

2.9.8 New Tests

When a laboratory seeks to gain certification for a new test, it must also submit to the Board the method validation summaries for any new test.

2.9.9 Proficiency

A laboratory must maintain analytical proficiency for each test it administers.

2.9.10 Records

In addition to all other relevant disclosure requirements, upon request of the Board or Board designee laboratories shall provide full access to all test records.

2.9.11 Maintenance of Certifications

Laboratories must maintain their certifications and accreditations and notify the Board if any lapse.

2.9.12 Remediation of Adulterated Cannabis

Adulterated Cannabis or Cannabis Product may not be sold or registered, except for product that may be remediated and has been satisfactorily remediated as prescribed by section 2.2.19 of this rule.

2.9.13 Other Parameters or Testing Methods

The Board retains discretion to change or add testing parameters, required pathogens, or other substances to the testing required under this rule.

2.10 Regulations Applicable to Integrated Licensees

The requirements in this section apply to applications for an integrated license.

2.10.1 All Cannabis Establishment Regulations Applicable

All regulations in sections 2.2 through 2.9 of this rule apply to integrated license holders. When manufacturing, integrated licensees will be permitted to utilize all lawful methods of extraction.

2.10.2 Dispensaries and Medical Cannabis

Except to the extent provisions in this section 2.10 impact dispensary operations, dispensaries and the medical cannabis registry are not regulated by this rule. They are regulated by Board Rule 3 and by Chapters 35 and 37 of Title 7 of the Vermont Statutes.

2.10.3 Co-located Operations

- (a) Integrated licensees may commingle Cannabis cultivation for adult-use sales with cultivation for dispensaries.
- (b) Prior to transfer to either a dispensary or a retail establishment, the licensee must create and maintain strict separation between Cannabis and Cannabis Product that will be sold through a retailer and Cannabis and Cannabis Product that will be sold through a dispensary to a registered patient. The separation must be documented in the Inventory Tracking System.
- (c) Integrated licensees may co-locate operations from different license types in the same location, but co-located operations must maintain all relevant security requirements for each license type and must maintain all Inventory Tracking System requirements.
- (d) Dispensaries may be co-located with retail Cannabis Establishments, provided that:
 - i. integrated licensees must have a system in place to ensure that staff give priority of service, including priority of entrance and sales, to registered dispensary patients before adult use consumers. This shall include curbside sale, if requested, for dispensary patients.
 - ii. Strict protocols must be in place to ensure that medical products for dispensary patients are not sold to adult-use consumers.

2.10.4 Duty to Maintain Continuity of Services to Medical Patients

- (a) Integrated licensees must ensure their dispensary operations maintain continuity of services to medical Cannabis patients.
- (b) If an integrated licensee has commingled their cultivation pursuant to 2.10.3(a), continuity of services will include designating sufficient biomass at an integrated licensee's cultivation facility to meet demand for medical Cannabis and Cannabis Products as indicated by dispensary sales data for the preceding 3 months. Such records and calculations will be provided to the Board or a Board designee upon request.

2.10.5 Use of Dispensary Cultivation for Integrated Licensees

- (a) The tiered plant canopy limits in Board Rule 1.3.1 that apply to all cultivator licenses apply to the cultivator portion of an integrated license, except for cultivation dedicated to medical cannabis sold through a dispensary.
- (b) Other than cultivation for a dispensary, the cultivator portion of an integrated license will be deemed to be in the largest cultivator tier that the Board has opened for an application acceptance period pursuant to Board Rules 1.3.1 and 1.10 and will be subject to the cultivation limit of that tier. The relevant maximum tier will be within the method of cultivation the integrated licensee has chosen to utilize in accordance with Board Rule 1.3.1.

- (c) If an integrated licensee has chosen not to commingle their dispensary and adult use Cannabis cultivation, the dispensary grow will be regulated by Board Rule 3 while the adult use grow will be subject to subsection (b) of this rule 2.10.5.
- (d) If an integrated licensee has chosen to commingle their dispensary and adult use Cannabis cultivation pursuant to section 2.10.3 of this rule, the cultivation will be subject to subsection (b) of this rule 2.10.5, with the following exception:
 - i. The total biomass of Cannabis required to meet the demand for medical Cannabis and Cannabis Products as indicated by dispensary sales data for the preceding 3 months will not be counted towards the total permissible square footage. If the total biomass set aside for medical Cannabis and Cannabis Products is ultimately not needed for that purpose, it may not be transferred to the adult-use market.
- (e) The Board at its discretion may require integrated licensees to provide the Board with any records that might demonstrate compliance or noncompliance with this section, including but not limited to sales and manufacturing data.

2.11 Regulations Applicable to Propagation Cultivators

The requirements in this section apply to propagation cultivators. An applicant for licensure as a propagation cultivator must also supply the same information required of an indoor cultivator pursuant to subsections 1.4 and 1.5.

2.11.1 Pesticides

Rule 2.3.1 shall apply to propagation cultivators.

2.11.2 Visitors to Propagation Cultivation Sites

Rule 2.3.2 shall apply to propagation cultivators.

2.11.3 Testing

- (a) Not less frequently than every sixty days, samples shall be comingled from randomized, patterned testing of all stock and mother plants and submitted to a CCB-licensed laboratory for pesticide testing.
- (b) The CCB may, in the Board's sole discretion, waive the requirements of this subdivision, 2a.3.3, for a licensee who has for twelve months consistently demonstrated compliance with subdivision (a) of rule, 2.3.3, and competent application of an approved, integrated pest management plan.
- (c) The CCB may impose enhanced ad hoc testing requirements in response to novel pests and pathogens in the general environment or outbreaks at a particular licensed establishment.

2.11.4 Propagation Product Labeling

- (a) A cultivation propagator who sells immature cannabis plants or cannabis seeds must concisely and accurately specify, on its website or another approved online location, procedures observed to mitigate risk from known cannabis diseases such as Hop Latent Viroid (HpLvd), Cannabis Cryptic Virus, and other common cannabis diseases and pests.
- (b) A cultivation propagator who sells immature cannabis plants or cannabis seeds must label its products with a written guarantee that, to the licensee's knowledge, the plants sold do not harbor known cannabis diseases such as Hop Latent Viroid (HpLvd), Cannabis Cryptic Virus, or other common cannabis diseases and pests and must include on labels a URL or QR code directing the reader to a site containing the information required at subdivision(a) of this rule, 2a.3.4.
- (c) A cultivation propagator shall retain and produce at the Board's request, all documentation related to production and genetic sourcing of clones, seedlings, immature cannabis plants, cloned propagation material, tissue culture, or cannabis seeds. If known, labels must report plant lineage, probable THC:CBD ratio upon flowering, feminized/unfeminized status, and autoflower status. Strain names must not be misleading.

2.11.5 Propagation Cultivator Packaging

- (a) Immature plant pots and containers cannot contain plastic. This subdivision (a) may be waived, at the Board's sole discretion, for a propagation cultivator that establishes and adheres to an effective reclamation program with appropriate sterilization.
- (b) Except as provided in subsection (c) of this section 2.3.5, when a cultivator transfers immature plants or seeds to another licensee, packaging must meet the requirements of:
 - i. Section 2.2.9(a) of this rule; and
 - ii. 7 V.S.A. § 904(d)(1).
- (c) When a cultivator transfers immature plants or seeds to a retail licensee and the Cannabis is intended for consumer purchase as packaged, packaging must:
 - i. include the cultivator's license number and process lot number;
 - ii. meet the requirements of section 2.2.9 of this rule;
 - iii. meet the requirements of 7 V.S.A. § 904(d)(1);
 - iv. meet the requirements of 7 V.S.A. § 907(c); and
 - v. include testing results, which can be conveyed using a website address, QR code or similar means of providing access to information accessible on a website.

2.11.6 Propagation Cultivator Inspections

Rule 2.3.6 shall apply to propagation cultivators.

2.11.7 Sanitation; Prohibition on Transfer of Insanitary Plant Matter; Reporting

- (a) Rule 2.3.7 shall apply to propagation cultivators.
- (b) A propagation cultivator shall not sell, distribute, or transfer any clones, seedlings, immature cannabis plants, cloned propagation material, tissue culture, cannabis seeds or other agricultural products with known pest or pathogen issues.
- (c) The discovery of Hop Latent Viroid (HpLvd), Cannabis Cryptic Virus, and other common cannabis diseases and pests shall be reported to the Board immediately, in like manner to the discovery of adulteration.

2.11.8 Cannabis Flower

- (a) A propagation cultivator shall not cultivate mature cannabis plants for the purpose of producing, harvesting, transferring, or selling cannabis flower for or to any person. 7 V.S.A. § 904b.
- (b) The 3,500 square feet allotted by the license shall be employed only for purposes consistent with propagation cultivation.
- (c) An immature cannabis plant intended for seed production may be permitted to flower in the custody of a propagation cultivator but must be destroyed upon seed harvest.
- (d) An immature cannabis plant used for research and genetics development and not intended for seed production must be transferred to another licensee prior to flowering, or if permitted to mature and flower to facilitate sampling, must be destroyed promptly following reasonable sampling.
 - (1) Cultivators may provide samples to employees for evaluation, research, and development, provided that such samples may not be consumed on any licensed premises.
 - (2) Samples will be limited to the following aggregate amounts in a calendar month: four grams per strain of flower per employee, and no more than seven strains of flower per employee.
 - (3) Flower samples must be labeled: RESEARCH & DEVELOPMENT SAMPLE; NOT FOR RESALE.

2.11.9 Security and Energy

Propagation cultivators shall comply with Rule 2.5, governing indoor and mixed cultivators, and if employing an outdoor site for propagation cultivation, Rule 2.4, governing outdoor and mixed cultivators.

2.11.10 Direct-to-Consumer Sales

- (a) A propagation cultivator may not sell to the public any product other than cannabis seeds that meet the federal definition of hemp.

- (b) Direct-to-consumer seed sales may not occur at the cultivation site or in a manner that undermines the security of the cultivation site.
- (c) Prior to selling seeds to the general public other than through a licensed retail cannabis establishment, a propagation cultivator must obtain written Board approval of a marketing and sales plan that describes the manner of sale, a site of sale suited to public access, the manner of delivery to the customer, and the manner in which sales are to be tracked. Following approval, a propagation cultivator shall adhere to the approved marketing and sales plan. This subsection (c) applies to all forms of sale, including online and catalog sales.
- (d) Laws and rules governing advertising apply to seeds marketed by a propagation cultivator.

2.12 Licensee's Ongoing Duty to Disclose

A Cannabis Establishment has an ongoing duty to fully and transparently update the information submitted with their licensing application or their last renewal form if they have renewed their license.

2.12.1 Disclosure Insufficient for Changes in Control

If a Cannabis Establishment seeks to change location or alter the interest holders that control it, mere disclosure may be insufficient to meet its obligations under this rule. It must apply for, and receive, a license amendment prior to any change in control, pursuant to Board Rule 1.17.

2.13 Waiver Provisions for Tier 1 Cultivators

Tier 1 indoor cultivators, tier 1 outdoor cultivators, and tier 1 mixed cultivators are not required to comply with the requirements of the following subsections of this rule:

- (a) 2.2.1(l);
- (b) 2.2.4(a);
- (c) 2.2.4(b);
- (d) 2.2.4(c);
- (e) 2.2.5(b)(i);
- (f) 2.2.5(b)(v);
- (g) 2.2.7(j);
- (h) 2.3.2(g);
- (i) 2.5.3, provided that only home occupancy businesses are exempted from the provisions of this section;
- (j) 2.5.6(b); and
- (k) 2.5.6(c).

2.14 Universal Application of Licensure Requirements

No person may operate in a manner that has the effect of subverting 7 V.S.A. § 901(d)(3)(A) or any other licensure requirements contained in 7 V.S.A. chapter 33 or Board Rule 1, and no person shall exercise control over a Cannabis Establishment without the disclosures required in Board Rule 1.4. At its discretion the Board may require additional information from Cannabis Establishments to ensure compliance with this section.

2.15 Municipalities

Municipalities may regulate Cannabis Establishments to the extent permitted in 7 V.S.A. § 863. The Board will give notice to a local control commission upon receipt of a new application for licensure within its municipal borders.

To ensure coordination with the Board, municipalities must:

- (a) Notify the Board if they create or dissolve a local control commission. The Board will not require local approval as a condition of an application pursuant to 7 V.S.A. § 863(c) unless the Board has received notice of the creation of a local control commission from the municipality. The Board cannot recognize a local control commission that
 - i. does not operate as a public body with official minutes; or
 - ii. is situated in a municipality that has not adopted ordinances or bylaws.
- (b) Promptly transmit to the Board minutes recording any official action of a local control commission, including when a local control license is granted, denied, suspended, revoked, or conditioned.
- (c) Decide on grants or denials of local control licenses within 45 days of receiving an application. A delay of more than 45 days without a decision will constitute a presumptive grant of a local control license. This period may be tolled at the Board's discretion if the local control commission is communicating with the applicant about conditions the applicant must meet to be approved for a local control license.

2.16 Regulatory Waiver

The Board, in accordance with the purposes and intent of Title 7 V.S.A. chapter 33 of the Vermont Statutes and this rule, may waive a regulatory requirement regarding the operations of a Cannabis Establishment to the extent such waiver does not conflict with any other state law, if in the Board's determination, such a waiver:

- (a) is necessary to achieve the purpose of Vermont law; and
- (b) does not create a danger to the public health, safety, or welfare.

2.17 Synthetic and Hemp-derived Cannabinoids

Pursuant to the Board's authority to regulate synthetic cannabinoids and hemp-derived cannabinoids, including delta-8 and delta-10 tetrahydrocannabinol, the production, manufacture, marketing, transfer, and sale of hemp-derived intoxicating cannabinoids and synthetic cannabinoids are hereby prohibited, except as set out in subsection 2.17.3.

2.17.1 Prohibition

Prohibited cannabinoids include:

- (a) All isomers, variants, analogs, and mimetics of delta-9 tetrahydrocannabinol, including delta-8 and delta-10 tetrahydrocannabinol, created by chemical manipulation of any part or derivative of the plant *Cannabis sativa* L., regardless of the delta-9 tetrahydrocannabinol concentration level of the source plant or plants; and
- (b) delta-9 tetrahydrocannabinol that has been chemically or mechanically concentrated or otherwise derived from hemp and then sprayed, infused, or otherwise artificially introduced onto or into any product, including hemp or hemp products, so as to impart intoxicating properties mimicking those of cannabis and cannabis products.

2.17.2 Presumptions

A consumable product that is not cannabis or a cannabis product is presumptively prohibited regardless of the delta-9 tetrahydrocannabinol concentration of any plant from which the product is sourced, if the product, in the form offered to consumers:

- (a) contains total tetrahydrocannabinol in a concentration exceeding 0.3 percent on a dry weight basis; or
- (b) contains more than 1.5 mg tetrahydrocannabinol per serving, where “serving” is the amount reasonably ingested by a typical consumer in a single instance; or
- (c) contains more than 10 mg total tetrahydrocannabinol per package, unless the ratio of cannabidiol to tetrahydrocannabinol is at least 20:1; or
- (d) contains beverage alcohol, including as a cocktail or mixed drink prepared at a place of public accommodation; or
- (e) has the dominant market appeal of mimicking the intoxicating effects of tetrahydrocannabinol.

2.17.3 Exceptions

The prohibition in this section 2.18 shall not apply to:

- (a) a product duly evaluated, registered, regulated by the Board, and taxed as a cannabis product;
- (b) an otherwise-prohibited cannabinoid-containing product that has been specifically authorized by the Board for sale at a licensed medical dispensary based upon a finding, pursuant to 7 V.S.A. § 971(b)(6), that the product is appropriate for use by a patient; or
- (c) manufactured pharmaceutical drugs approved by the United States Food & Drug Administration for therapeutic use upon the prescription of a medical provider, to include Epidiolex, Marinol, Syndros, Cesamet, and Sativex; or
- (d) a product that is prohibited by this rule, 2.17, solely because its delta-9 tetrahydrocannabinol content exceeds serving or package limits and not for any other reason, provided the product is produced and transferred exclusively for export by lawful means to a state where the product lawfully may be sold to consumers.