

## TITLE 230 – DEPARTMENT OF BUSINESS REGULATION

### CHAPTER 80 – MARIJUANA

#### SUBCHAPTER 10 – INDUSTRIAL HEMP

##### PART 1 – Rhode Island Industrial Hemp ~~Agricultural Pilot~~ Program

### 1.1 Authority

This Part is promulgated by the Department of Business Regulation's Office of Cannabis Regulation, with the assistance of the Department of Environmental Management, Division of Agriculture, in accordance with R.I. Gen. Laws § 2-26-1, *et seq.*, The Hemp Growth Act (the "Act"), and 7 U.S.C. §§ 1639o-s, The Agriculture Improvement Act of 2018 ("AIA 2018"). ~~7 U.S.C. § 5940 (Section 7606 of the Agricultural Act of 2014).~~

### 1.2 Purpose

The purpose of this Part is to describe the licensing and regulation of industrial hemp growth, ~~and production, distribution and retail sales~~ as an agricultural product as provided for in R.I. Gen. Laws § 2-26-4 and AIA 2018, § 297 as it pertains to the hemp growers and handlers, and the employees of each, as participants in the State's Industrial Hemp Agricultural Pilot Program.

### 1.3 Scope

This Regulation applies to the growth, ~~and production, distribution and retail sale~~ of industrial hemp by industrial hemp growers, ~~and handlers, retailers and distributors~~ and the employees of each, ~~and to the growth, production and research by institutions of higher education.~~

### 1.4 Incorporated Materials

- A. These Regulations hereby adopt and incorporate 40 C.F.R. § 152.25(f) (2018) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these Regulations.
- B. These Regulations hereby adopt and incorporate Environmental Protection Agency's "Active Ingredients Eligible for Minimum Risk Pesticide Products" (2015) by reference, not including any further editions or amendments thereof

and only to the extent that the provisions therein are not inconsistent with these Regulations.

- C. These Regulations hereby adopt and incorporate Environmental Protection Agency's "Inert Ingredients Eligible for FIFRA 25(b) Pesticide Products" (~~2015~~November 2016) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these Regulations.

## 1.5 Definitions

- ~~A. "Agricultural Pilot Program" means the state's Industrial Hemp Pilot Program established pursuant to the Act and these regulations.~~
- A. "Acceptable Hemp THC level" or ".n% THC" as used throughout this Part means the level of THC in a given hemp sample reported by the laboratory conducting the testing in accordance with Licensing Analytical Laboratories for Sampling and Testing Medical Marijuana, § 216-RICR-60-05-6.21, which takes into account the measurement of uncertainty, reported in conjunction with a confidence level of at least ninety-five percent (95%) in accordance with the USDA's Testing Guidelines for Identifying Delta-9 Tetrahydrocannabinol (THC) in Hemp, and which complies with § 1.5(R) of this Part.
- B. "Agent" means any individual who is authorized to act for or in place of the licensee.
- C. "Approved Testing Facility" or "approved testing facility as determined by DBR" pursuant to R.I. Gen. Laws § 2-26-6(a) means an analytical laboratory that is licensed by RIDOH pursuant to the Rules and Regulations promulgated by it for Licensing Analytical Laboratories for Sampling and Testing Medical Marijuana (216-RICR-60-05-6).
- D. "CBD" or "Cannabidiol" means cannabidiol (CBD) derived from a hemp plant as defined in R.I. Gen. Laws § 2-26-3, not including products derived from exempt cannabis plant material as defined in 21 C.F.R. § 1308.35.
- EB. "Certified" means:
1. With respect to "seed source," is certified according to the Association of Official Seed Certifying Agencies (AOSCA) standards or alternative certification standards approved by ~~the DBR Department~~; and
  2. With respect to hemp including hemp derivatives, is produced from plants that were tested ~~during the active growing season~~within thirty (30) days of harvest or after processing as applicable and found to produce industrial

hemp having a THC concentration that does not exceed three tenths of one percent (0.3%) on a dry weight basis or per volume basis regardless of moisture content as demonstrated through relevant documentation; and

3. With respect to hemp-derived consumable CBD products, is compliant with the Act and these Regulations as demonstrated through relevant documentation and/or as approved by DBR.

F. "Child-Resistant" means packaged in accordance with the Poison Prevention Packaging Act of 1970 (15 U.S.C. §§ 1471-75) and 16 C.F.R. Part 1700, et seq.

G. "Consumable" and any of its grammatical derivatives means intended for ingestion by a human or animal.

HG. "Department," ~~or~~ "DBR" or "Office" means the Office of Cannabis Regulation within the Department of Business Regulation, with the assistance of the Division.

I. "Distributor" or "Licensed CBD Distributor" means a person licensed to distribute hemp-derived consumable CBD products as defined in R.I. Gen. Laws § 2-26-3(11).

JD. "Division" or "DEM" means the Rhode Island Department of Environmental Management, ~~Division of~~ Agriculture.

KE. "Extraction" means a process by which cannabinoids, terpenes, or any other compound are separated from cannabis plant material through chemical or physical means.

LF. "Growing area" means the land on which a licensee cultivates, produces or plans to cultivate or produce industrial hemp.

MG. "Grower" means a person or entity who or that cultivates hemp for commercial purposes.

NH. "Handler" means a person or entity who or that produces hemp for processing into commodities, products, or agricultural hemp seed.

O. "Hemp derivative" means any compound or substance collected or extracted from industrial hemp including but not limited to Cannabidiol, other cannabinoids or terpenes.

P. "Hemp-derived consumable CBD product" means any product meant for ingestion by a human or animal, including, but not limited to, concentrates, extracts, and cannabis-infused foods and products, which contains cannabidiol

derived from a hemp plant as defined in R.I. Gen. Laws § 2-26-3, which shall only be sold to persons age twenty-one (21) or older, which shall not include products derived from exempt cannabis plant material as defined in 21 C.F.R. § 1308.35, and which shall not include any product meant for inhalation.

Q. "Hemp products" or "industrial hemp products" means all products made from the plants, including, but not limited to, concentrated oil, cloth, cordage, fiber, food, fuel, hemp-derived consumable CBD products, paint, paper, construction materials, plastics, seed, seed meal, seed oil, and seed certified for cultivation, which satisfy the requirements of the Act as defined in R.I. Gen. Laws § 2-26-3(10).

~~R.I. "Industrial hemp" or "hemp" means the plant of the genus cannabis and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed three tenths percent (0.3%) on a dry weight basis of any part of the plant cannabis, or per volume or weight of marijuana product or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant cannabis regardless of the moisture content. For purposes of this Part, hemp shall include hemp derivatives such as hemp extractions and concentrates.— Pursuant to R.I. Gen. Laws § 2-28.6-4(t) hemp is not medical marijuana.~~ *Cannabis sativa L.* and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three tenths of one percent (0.3%) on a dry weight or per volume basis regardless of moisture content, and which satisfies the requirements of the Act as defined in R.I. Gen. Laws § 2-26-3(8).

S.J. "Institution of higher education" shall have the meaning set forth in 20 U.S.C. § 1001 and consistent with R.I. Gen. Laws § 2-26-9.

~~K. "The Hemp Growth Act" or "Act" means R.I. Gen. Laws § 2-26-1, et seq.~~

I.L. "Law enforcement agency" means a Federal, State or local agency responsible for maintaining public order and enforcing the law, particularly activities involving prevention, detection and investigation of crime and the apprehension of violators.

U.M. "License" means an industrial hemp grower, ~~license and/or an~~ industrial hemp handler, ~~CBD distributor and/or CBD retailer~~ license issued by ~~the~~ Department DBR pursuant to the Act and these Regulations. ~~A grower license authorizes the licensee to cultivate industrial hemp and a handler license authorizes the licensee to produce hemp or hemp derivatives for processing into~~

~~commodities, products or agricultural hemp seed. A dual license authorizes both growth and handling.~~

V. "Licensed cardholder" means and includes all officers, directors, owners, shareholders, managers, members, employees, and agents who have been issued a registry identification for their association with the licensee.

WN. "Licensee" means an individual or entity holding a License.

XΘ. "Licensing agreement" means an agreement executed by the licensee agreeing to abide by these Regulations and any other terms and conditions the ~~Department~~Office deems necessary for enforcing the Act.

YP. "Licensing period" means the time during which an industrial hemp grower, licensee handler, CBD distributor and/or CBD retailer license is valid. Licenses are issued for two (2) year terms (grower/handler) and one (1) year terms (CBD distributor/CBD retailer).

Z. "Lot" means a contiguous area in a field, greenhouse or indoor growing structure containing the same variety or strain of Cannabis throughout the area.

~~Q.~~ ~~"Hemp derivatives" means substances derived from hemp including concentrates made from hemp and substances derived through an extraction process.~~

AA. "Negligence" as used in § 1.15(A) of this Part and pursuant to the AIA 2018 and 7 C.F.R. § 990.1 means failure to exercise the level of care that a reasonably prudent person would exercise in complying with the Regulations set forth under this Part and includes:

1. Failing to provide a legal description of land on which the producer produces hemp;
2. Failing to obtain a license or other required authorization from DBR;
3. Growing, producing/manufacturing, distributing or selling at retail *Cannabis sativa L.* with a delta-9 tetrahydrocannabinol concentration of more than three tenths of one percent (0.3%) on a dry weight basis or per volume basis regardless of moisture content; and
4. Failing to comply with the Act or these Regulations.
5. "Negligence" as used in this Part does not include the production of plants that exceed three tenths of one percent (0.3%) THC concentration but are less than one percent (1.0%) THC concentration on a dry weight basis if

the licensee used reasonable efforts to cultivate plants with a three tenths of one percent (0.3%) or lower THC concentration on a dry weight basis.

BB. "Neutral" means colors that include but are not limited to: black, white, gray, beige, brown, and tan. Neutral colors do not include primary and secondary colors (such as red, orange, yellow, green, blue, or purple) or any variant of primary or secondary colors.

CCR. "Non-contiguous growing area" means a growing area on which a licensee grows or plans to grow industrial hemp that is separated from other growing areas by more than a mile. Partial acreage should be rounded up to the next whole acre.

DDS. "Person" means a natural person, corporation, association, partnership or other legal entity.

EE. "Program" means the State's Industrial Hemp Program established pursuant to the Act, these regulations and compliant with the AIA 2018.

FF. "Program Tracking System" means any system(s) approved by DBR to record and track all "seed to sale" activities and transactions in accordance with §§ 1.11(A)(1) and 1.6(E)(3) of this Part.

GGT. "Research" means the growth, cultivation and handling of industrial hemp either by an institution of higher education or otherwise under the ~~Agricultural Pilot~~ Program for purposes of agricultural or academic research.

HH. "Retailer" or "licensed CBD retailer" means a person licensed to sell hemp-derived consumable CBD products as defined in R.I. Gen. Laws § 2-26-3(12).

II. "RIDOH" means the Rhode Island Department of Health.

JJU. "Sample" means plant parts taken as representative of an individual plant or the combined total plants in the growing area, or a production batch of hemp or hemp derivatives.

KK. "Testing agent" shall mean an employee of an approved testing facility who performs independent testing of the licensee's hemp in accordance with § 1.9(D)(1) of this Part.

LLV. "THC" means THC as defined in R.I. Gen. Laws § 2-26-3(~~138~~) and includes delta 9-tetrahydrocannabinol, the principal psychoactive constituent of cannabis, tetrahydrocannabinol acid and the natural or synthetic equivalents of the substances contained in the plant, or in the resinous extractives of, *Cannabis sativa L.*, or any synthetic substances, compounds, salts, or derivatives of the

plant or chemicals and their isomers with similar chemical structure and pharmacological activity.

MM. "The Hemp Growth Act" or "Act" means R.I. Gen. Laws § 2-26-1, *et seq.*

NN. "Tracking certificate" means a registration certificate authorized or issued by DBR or which DBR requires be used for the compliant possession and cultivation of hemp plants in accordance with the Act and these Regulations.

OO~~W~~. "Volunteer plant" means any cannabis plant which is self-propagated and grows of its own accord from seeds or roots in the years following an intentionally planted industrial hemp crop. Volunteer plants are not intentionally planted.

## **1.6 Application Process – Grower and Handler**

A. Each applicant for an industrial hemp grower, handler or dual license, ~~whether as a grower and/or handler~~ must submit to DBR:

1. A ~~submit a~~ signed, complete, accurate and legible application in the form prescribed by DBR ~~together with the applicable application fee.~~ Applications will be accepted throughout the calendar year.

a. Applications will be accepted throughout the calendar year;

2. A non-refundable application fee of two -hundred and fifty dollars (\$250.00); and

3. Any other information as required by DBR.

B. Applicants applying to renew a license must ~~update submit their a application-information~~ renewal application along with the applicable and renewal licensing fees as applicants applying for a new license, and must submit any other information as required by DBR.

C. ~~In addition, applicants~~ Applications for initial and for renewal licenses must include, on the application, the licensing numbers of any previous licenses held and year of issuance of those licenses.

ED. DBR will consider a Applications for industrial hemp grown outdoors or indoors- ~~will be considered.~~

DE. The industrial hemp grower, handler or dual license applicant must provide:

1. Name, address and other contact information of:



- a. The applicant who will supervise, manage, or direct the growing, and/or handling, ~~or production~~ of hemp or hemp products;
  - b. Any person partnering or providing consulting services regarding the growing and/or, handling, ~~or production~~ of hemp or hemp products, ~~if applicable~~; and
  - c. The applicant's employees and, if the applicant is an entity, the applicant's officers, directors, owners, shareholders, managers and members.;
2. A detailed description of the land area (including street address, assessor's plat and lot number, square footage and if the land does not abut a public road, the nearest public road of access) or facility location to be used for the growth, ~~and/or~~ production, distribution and/or sales of industrial hemp including, but not limited to: a map or aerial photograph and Global Positioning System ("GPS") coordinates sufficient for locating production fields and showing the boundaries, dimensions and size of the growing area, total acreage of the growing area, and a description of the building including approximate dimension or square feet of the growing area if cultivation occurs indoors.;
3. A description of how the applicant will track hemp growth from the DBR-approved seed to sale tracking program to be used by the applicant and described in § 1.10 of this Part, including the policies and procedures for handling voluntary and mandatory recalls of all hemp, hemp derivatives and hemp products.
  - a. Such procedures shall be adequate to deal with recalls due to any action initiated at the request or order of DBR, and any voluntary action by a grower, handler, or dual licensee to remove defective or potentially defective hemp, hemp derivatives or hemp products from the market, as well as any action undertaken to promote public health and safety. and the plan for tracking and monitoring all hemp grown and produced by the applicant;
4. A signed statement that the applicant is the owner or lessee of the growing area, land area and any building to be used for cultivation, and/or ~~or~~ handling, of industrial hemp and/or hemp products ~~of industrial hemp~~ or a statement, signed by the owner of the growing area, land area and any building consenting to that use.;



5. An attestation that the licensee will procure industrial hemp, hemp seed or plants for cultivation or production from a certified source and is of a type or variety that do not exceed the maximum concentration of THC.
  - a. Upon receipt of the industrial hemp seeds the licensee shall submit a copy of the certificate of analysis to DBR showing the industrial hemp, hemp seeds or plants obtained for cultivation or production are from a certified source and is of a type or variety that do not exceed the maximum concentration of delta-9 THC as set forth in the Act, as applicable.
  - b. Upon receipt of the industrial hemp plants, flower or product, the licensee shall submit a copy of the certificate of analysis to DBR showing the plants, flower or product does not exceed the maximum concentration of THC as set forth in the Act, as applicable.
6. A detailed description of the applicant's cultivation or production method, as applicable, specifically including a description of how the applicant will keep lots from being commingled.
7. A detailed description of the applicant's extraction method, if applicable.
- ~~8. A detailed description of the applicant's research proposal as a participant in the Agricultural Pilot Program;~~
- ~~89.~~ A statement of intended end use for all industrial hemp to be grown or produced including parts or derivatives of any hemp plants or hemp that will be grown or produced by the applicant, if applicable.
- ~~910.~~ Documentation that the applicant has or will enter into sale agreements or otherwise transact with another licensee or such other persons who are in compliance with applicable laws regarding the possession, processing and sale of industrial hemp.
- ~~101.~~ Applicant's desired license type, whether grower, ~~or handler, or dual grower and handler. or a dual license;~~ and
- ~~11.~~ Documentation demonstrating that the applicant's grower and/or handler activities will comply the city/town's applicable zoning ordinances.
12. Any other information ~~the DBR determines~~ is necessary for enforcing the ~~Hemp Act, the Agricultural Pilot Program and these Regulations.~~

- ~~F. All grower applications will be submitted to DEM for its review before the issuance of any license. As a result of DEM review, the applicant may be asked to provide additional information as needed by DBR or DEM. Failure to provide such additional information or otherwise respond may result in the denial of the license.~~
- ~~G. Incomplete grower, handler, dual license applications are deficient and will not be processed.~~
- ~~E. Each applicant for licensure shall submit a non-refundable application fee of two-hundred and fifty (\$250) dollars with the application. Fees will not be refunded if a license is not granted.~~
- ~~F. Incomplete applications will not be and fees are nonrefundable.~~
- HG.** False, inaccurate or misleading information provided on an application is grounds for license denial. Licenses may be denied to applicants who have previously had an industrial hemp license revoked, suspended or denied.
- ~~H All grower applications will be submitted to DEM for its review before the issuance of any license. As a result of DEM review, the applicant may be asked to provide additional information as needed by DBR or DEM and failure to provide such additional information or otherwise respond may result in the denial of the license.~~

## **1.7 Application Process – Distributor and Retailer**

- ~~A. Each applicant for a hemp-derived consumable CBD distributor or retailer license must submit to DBR:~~
  - ~~1. A signed, complete, accurate and legible application in the form prescribed by DBR.~~
  - ~~a. Applications will be accepted throughout the calendar year;~~
  - ~~2. Any other information as required by DBR.~~
- ~~B. Applicants applying to renew a license must submit a renewal application along with any additional information as requested by DBR.~~
- ~~C. The applicant must provide:~~
  - ~~1. The name and address of the applicant who will supervise, manage, and direct the distribution or sale of hemp-derived consumable CBD products;~~

2. The names and addresses of any person or entity partnering or providing consulting services regarding the distribution or sale of hemp-derived CBD products;
3. The location of the facility and other information as may be required by the DBR as to where the distribution and/or sale of hemp-derived consumable CBD products will occur;
4. Documentation that the applicant and/or its agents have entered into a purchase agreement with a hemp handler, distributor or retailer;
5. A description of how the applicant will track hemp distribution and sale from purchase to sale, including the policies and procedures for handling voluntary and mandatory recalls of all hemp-derivatives and hemp-derived consumable CBD products;
  - a. Such procedures shall be adequate to deal with recalls due to any action initiated at the request or order of DBR, and any voluntary action by a hemp-derived CBD distributor and/or retailer to remove defective or potentially defective hemp derivatives or hemp-derived CBD products from the market, as well as any action undertaken to promote public health and safety;
6. Documentation demonstrating that the applicant's retailer and/or distributor activities will comply the city/town's applicable zoning ordinances; and
7. Any other information requested by DBR.

D. Incomplete distributor or retailer applications are deficient and will not be processed.

E. False, inaccurate, omitted or misleading information provided on an application is grounds for license denial. Licenses may be denied to applicants who have previously had an industrial hemp license revoked, suspended or denied.

## **1.87 Issuance of Licensing Agreement and License**

A. Upon approval of an application,

1. A ~~the~~ grower, handler or dual license applicant must pay the license fee of two thousand five hundred ~~dollars~~ (\$2,500.00)-~~dollars~~, and
2. A distributor or retailer must pay a license fee of five hundred dollars (\$500.00).

3. License fees must be paid prior to license issuance, unless a grower or handler is otherwise eligible for a distributor or retailer license at no additional cost pursuant to R.I. Gen. Laws § 2-26-5(f).

B. ~~A license~~ isare issued only for one (1)~~the~~ location and the type of activity(ies) listed on the license.

1. Non-contiguous growing areas require separate licenses.

C. Each applicant must sign a licensing agreement. - The failure of the licensee to comply with any term or condition of the licensing agreement shall be grounds for license revocation, suspension or other enforcement action.

D. By signing the licensing agreement, the licensee agrees to the following terms and conditions:

1. The licensee will allow the inspection and sampling of the industrial hemp and hemp products, including crops, ~~and any~~ derivatives and hemp-derived consumable CBD products, at any and all times that DBR deems necessary, including but not limited to sowing, growing, production, harvest, storage, ~~and production~~, distribution and retail sale;

2. All records relating to planting, growth, cultivation, harvest, production, processing, destruction, distribution, sales and marketing of industrial hemp and hemp products must be kept for a period of five (5) years. The records must be made available to DBR upon request;

3. ~~The~~ DBR may require reporting of any information or data associated with the planting, growth, cultivation, harvest, production, processing, distribution, sales and marketing of industrial hemp and hemp products. - The licensee must submit all required reports by the due dates specified by DBR;

4. Information provided to DBR and data collected by the DBR through the industrial hemp licensing and Regulation process may be publicly disclosed and may be provided to DEM and other government agencies and law enforcement agencies without notifying the licensee;

5. Licensees shall comply with the Act, these Regulations, all other terms and conditions the DBR determines necessary for enforcement thereof and all other laws applicable to the applicant and its operations, including requirements under any applicable DEM and RIDOH ~~Department of Health~~ Regulations.

6. Any failure to comply with the licensing agreement, the Act or these Regulations may be enforced by DBR as an administrative violation and shall be grounds for license suspension or revocation.

ED. All grower and handler licenses shall be valid for two (2) years. Licensees must re-apply to participate in the program every two (2) years through timely renewal of their license. All industrial hemp plant material must be planted and harvested within the licensing period unless otherwise approved by DBR.

F. All distributor and retailer licenses shall be valid for one (1) year. Licensees must re-apply to participate in the program every year through timely renewal of their license.

GE. No industrial hemp plants shall be included in any licensed marijuana production programs, without the prior approval of DBR in its discretion. No growing area may contain cannabis plants which the licensee knows or has reason to know are of a variety that will produce a plant that when tested will contain more than three tenths of one percent (0.3%) THC on a dry weight basis.

HF. Amendments to an existing license may be limited to reduction in the number of acres planted or square footage used within the original growing area and changes to contact information.

1. Any licensee who wishes to reduce the growing area on which the licensee will conduct industrial hemp cultivation or production must submit to DBR; at least within ten (10) days prior to theef planting or commencement of production, an updated detailed description of the growing area including GPS location and map; and building description with approximate square footage of growing area, if applicable, for review and approval by DBR.

2. Requests to expand the original growing area are subject to review and approvalconsideration by DBR, in its sole discretion, and if granted may require a separate application and license.

3. No reimbursements of license fees shall be made notwithstanding any reduction in the growing area during any licensing period.

4. Any changes to the information required under §§ 1.6(E) or (F) (D)(1) of this Part must be reported to DBR within ten (10) days of approved by DBR prior to the change.

IG. Any conversion of cannabidiol to delta9-tetrahydrocannabinol or any derivative form of THC by any licensee in the Agricultural Pilot Program is strictly prohibited.

## 1.98 Inspection, Sampling and Testing

A. During inspection and sampling, the licensee or its authorized representative must be present and must allow complete and unrestricted access to all industrial hemp, including plants, parts, seeds, ~~and derivatives~~ and products within ~~a growing area~~ a licensed area whether growing, producing, harvested or stored, and all land, buildings and other structures used for the cultivation, production, manufacturing or storage of industrial hemp derivatives and hemp products, including retail and distribution facilities, and all documents and records pertaining to the licensee's industrial hemp operations.

### B. Inspection

1. Consistent with the AIA 2018 § 297B(a)(2)(A)(v) all licensees are subject to mandatory inspections conducted by DBR that include but are not limited to:
  - a. License application inspection: Prior to issuing a license, DBR may schedule a site visit to the applicant's location. The purpose of this visit will be to inspect the location, to review information that was provided during the application process and to review the proposed industrial hemp and/or consumable CBD operations.
  - b. Records inspections: DBR may conduct reasonable inspections of a licensee's books and records to ensure that the licensee is complying with applicable law including the Act and these Regulations.
  - c. Periodic Inspections: Pursuant to R.I. Gen. Laws §§ 26-6-6 and § 2-26-7(b) all licensees are subject to periodic inspection to verify compliance with the requirements of the Act and these Regulations including inspection during sowing, growing season, harvest, storage, and production, distribution and/or sales.
2. ~~In addition to any inspection and sampling under § 1.8(B)(1) of this Part, DBR may inspect and require samples from any licensee during normal business hours if DBR has reason to believe a violation of the Act or these regulations may be occurring or has occurred.~~
3. ~~Inspections will include inspection at the following stages:-~~
  - a. ~~License application process: Prior to issuing a license, DBR may schedule a site visit to the applicant's location. The purpose of this visit will be to inspect the location, to review information that was~~

~~provided during the application process and to review the proposed industrial hemp operations.~~

~~b. — Records Inspections: DBR may conduct reasonable inspections of a licensee's books and records to ensure that the licensee is complying with applicable law including the Act and these regulations.~~

### C. Sampling

1. DBR will require testing of industrial hemp and hemp products to ensure that it does not exceed the three tenths of one percent (0.3%) THC level, as required by R.I. Gen. Laws § 2-26-3(86), and is in compliance with other provisions of the Act and these Regulations.
2. For all ~~licensees~~ hemp growers, sampling of plants shall may be conducted thirty (30) days prior to ~~prior to~~ harvest ~~or production~~ by a ~~licensed~~ testing ~~facility~~ agent and with the licensee and, if applicable, a DBR representative present. Sampling will be scheduled in advance with the licensee or an authorized representative of the licensee.
32. All industrial hemp, hemp derivatives and/or hemp-derived CBD products being distributed, sold at retail, grown and/or produced within a licensed area, ~~including plants, crops and derivatives~~ are subject to sampling by a licensed testing facility agent with the licensee and, if applicable, a DBR representative present to ensure compliance with the Act and these Regulations. The licensee shall be responsible for the cost and expense of all sampling.
4. DBR may require samples from hemp plants, hemp derivatives or hemp-derived CBD products from any licensee at any time if DBR has reason to believe a violation of the Act or these Regulations may be occurring or has occurred.
5. In conformity with § 1.9(C)(2) of this Part, a hemp grower may be directed to abstain from harvesting its hemp crop until sampling occurs.

### D. Testing

1. Upon direction from DBR, DEM or RIDOH as applicable, testing, including but not limited to testing for THC, CBD, and/or other material characteristics such as pesticides, heavy metals, and microbial concentration on a dry weight or per volume basis, will be performed by an approved testing facility.



- a. ~~For purposes of these regulations and pursuant to R.I. Gen. Laws § 2-26-6(a), an "approved testing facility as determined by DBR" shall be defined as an analytical laboratory that is licensed by the Rhode Island Department of Health ("RIDOH") pursuant to the rules and regulations promulgated by RIDOH for Licensing Analytical Laboratories for Sampling and Testing Medical Marijuana (216-RICR-60-05-6) ("Licensing Analytical Laboratories for Sampling and Testing Medical Marijuana").~~ All testing performed by an approved testing facility for a licensee shall conform to the requirements set forth in Licensing Analytical Laboratories for Sampling and Testing Medical Marijuana, including but not limited to §§ [216-RICR-60-05-6.21\(A\)](#), (B) and (C). The licensee shall be responsible for the cost and expense of such testing.
2. A ~~sample~~ test result greater than three tenths of one percent (0.3%) THC on a dry weight or per volume basis shall be *prima facie* evidence that at least one (1) cannabis plant or part of a plant or a derivative batch or derivative product in the licensee's location contains THC above the allowable limit and that the licensee is not in compliance with the Act and these Regulations.
3. The licensee may request a retest of any retained portion of a sample. Any request for retesting must be made to DBR, in writing, within ten (10) days of the date of notification of test results. The licensee must pay all analysis costs and expenses associated with any retest.
4. ~~DBR may require that a~~Any hemp, plants, ~~or materials, derivatives or hemp products~~ as to which testing results reflect THC content above the allowable limit and the lot to which said plants, materials, derivatives or hemp products belong are prohibited from entering the hemp stream of commerce and DBR may require that any hemp plants, materials, derivatives or hemp products as to which testing results reflect THC content above the allowable limit be destroyed by the licensee under DBR's supervision and at the licensee's expense pursuant to § 1.11(L) of this Part.
5. Upon completion of testing, any remaining samples may be destroyed thirty (30) ten (10) days after the date of notification of test results.
6. Pursuant to 7 C.F.R. § 990.70(d), the licensee (producer) is responsible for ensuring that the laboratory conducting testing in conformity with this Part reports each sample's test results with all required information to the USDA.

## 1. ~~109~~ **Agricultural Pilot Program Registry Identification Cards**

- A. Before issuance of the license all officers, directors, owners, shareholders, managers, members, ~~employees~~, and agents of the licensee must apply for a registry identification card and all officers, directors, owners, shareholders, managers, members and agents must submit to a national criminal background check as provided in the Act and § 1. ~~109~~ (~~CD~~) of this Part. Such individuals may be hired, appointed, or retained prior to receiving a registry identification card, but may not begin engagement in hemp cultivation, production, distribution, retail sales or other license activities until receipt of the card.

### ~~B.~~ Registry Identification Card Definitions

- ~~1. "Licensed cardholder" includes all officers, directors, owners, shareholders, managers, members, employees, and agents who have been issued a registry identification for their association with the licensee.~~
- ~~2. "Agent" of a licensee shall include, but not be limited to, "testing agents."~~
- ~~3. "Testing Agent" shall mean an employee of an approved testing facility who performs independent testing of hemp of the licensee in accordance with § 1.8(D)(1) of this Part.~~

### BC. Registry Identification Card Requirement, Eligibility, Annual Fee and Application

1. All officers, directors, owners, shareholders, managers, members, employees, and agents of the licensee must apply for **Agricultural Pilot Program** registry identification cards.
2. Each licensee shall maintain a current list of all licensed cardholders associated with the licensee.
3. Licensed cardholders shall be at least twenty-one (21) years old.
4. There shall be a fifty-dollar (\$50.00) non-returnable, non-refundable biennial annual fee for each an Agricultural Pilot Program registry identification card, ~~including each~~ initial application and subsequent annual renewal.
5. Applications pursuant to ~~this section~~ § 1.10 of this Part shall be on such forms and through such submission mechanisms as directed by DBR.

### CD. Criminal Background Checks

1. Pursuant to R.I. Gen. Laws § 2-26-5(c)(7), all applicants are subject to a national criminal background check. This shall include all officers, directors, owners, shareholders, managers, members, and agents of the licensee (hereinafter also referred to in this section as "applicants").
2. Pursuant to R.I. Gen. Laws § 2-26-5(c)(7)(iv), disqualifying information is defined as a conviction for any felony offense under R.I. Gen. Laws Chapter 21-28, or murder, manslaughter, first-degree sexual assault, second-degree sexual assault, first-degree child molestation, second-degree child molestation, kidnapping, first-degree arson, second-degree arson, mayhem, robbery, burglary, breaking and entering, assault with a dangerous weapon, or any assault and battery punishable as a felony or assault with intent to commit any offense punishable as a felony.
3. Consistent with the AIA 2018 § 297(B)(e)(3)(B), disqualifying information includes the ten (10) year period following the conviction of any felony drug offense described in § 1.10(C)(2) of this Part and excludes a controlled substance felony conviction for participation in a State hemp pilot program authorized under the AIA 2014 before December 20, 2018, pursuant to 7 C.F.R. § 990.6(d).
43. Pursuant to R.I. Gen. Laws § 2-26-5(c)(7)(i), the national criminal identification records check shall include fingerprints submitted to the Federal Bureau of Investigation. Application for said records check may be made to the ~~Bureau of Criminal Identification of the Department of Attorney General~~, Rhode Island State Police ("RISP"), ~~or the local police department.~~
54. Pursuant to R.I. Gen. Laws § 2-26-5(c)(7)(i), upon the discovery of any disqualifying information, RISP shall send written notification to the applicant disqualifying the applicant and informing the applicant of the nature of the disqualifying information.
65. Pursuant to R.I. Gen. Laws § 2-26-5(c)(7)(i), upon discovery of any disqualifying information, the RISP shall notify DBR in writing of the fact that disqualifying information has been discovered thus disqualifying the applicant.
76. Pursuant to R.I. Gen. Laws § 2-26-5(c)(7)(ii), in those situations in which no disqualifying felony as defined in R.I. Gen. Laws §§ 2-26-5(7)(iv)-(v) has been found, the RISP shall inform the applicant and DBR, in writing, of this fact.

87. Pursuant to R.I. Gen. Laws § 2-26-5(c)(7)(vi), the applicant shall be responsible for any expense associated with the national criminal background check with fingerprints.

DE. Issuance of the ~~Agricultural Pilot~~ Program Registry Identification Card

1. Once the licensee application is approved by DBR, each approved officer, director, owners, shareholder, manager, member, ~~employee~~, or agent of the licensee is responsible for ~~obtaining~~getting a registry identification card.
2. The registry identification card shall contain:
  - a. The name, address and date of birth of the person.
  - b. The legal name of the licensee that the individual is affiliated with.
  - c. The category of the person's affiliation; officer, director, owner, shareholder, manager, member, employee, or agent.
  - d. The date of issuance and expiration date of the registry identification card.
  - e. A random registry identification number.
  - f. A photograph.

EF. Expiration and Renewal of Registry Identification Cards

~~1.~~ ~~Agricultural Pilot~~ Program registry identification cards shall expire ~~two~~one years after issuance. Renewal applications shall be on such forms and through such submission mechanisms as directed by DBR.

EG. Termination of Registry Identification Card

1. If a ~~licensee~~Program registry identification cardholder violates R.I. Gen. Laws §§ 2-26-5(c)(7)(iv)-(v), or any portion of these Regulations which apply to such cardholder, his or her registry identification card may be suspended/revoked as determined by DBR pursuant to R.I. Gen. Laws § 2-26-5(e).
2. When a Program registry identification cardholder ceases work or other association with a licensee for any reason, ~~whether voluntarily or involuntarily or upon the licensee closing, the cardholder's~~ this or her registry identification card shall be null and void ~~and. In that situation,~~ the licensee and/or the cardholder shall notify DBR and shall return the

registry identification card to DBR within ten (10) business days of the separation. ~~And no~~ hearing shall be necessary to render the card null and void.

## **1.110 Operational Requirements**

### **A. Agricultural Pilot Program Tracking System Traceability**

1. ~~Upon direction by DBR, each licensee may shall be required to utilize the state approved Agricultural Pilot Program Tracking System to document and monitor compliance with the Act, these regulations, and the all testing regulations and requirements, including but not limited to seed to sale tracking, inventory supply tracking, adherence to restrictions on third party supply and sources of hemp and transfers thereof by the licensee, and all testing compliance tracking. Licensees may be required to pay costs associated with use of the Agricultural Pilot Program Tracking System which may be assessed on an annual, monthly, per use, or per volume basis and payable to the state or to its approved vendor.~~ Licensees shall track hemp from seed to sale in accordance with their approved application and § 1.6(E)(3) of this Part.
2. Plant material from one (1) lot is prohibited from being commingled with plant material from any other lot.

### **B. Limitation on Sales and Transfers**

1. ~~Licensees~~ Licensed growers, handlers and distributors shall only ~~sell~~, transfer and transport hemp including hemp derivatives, hemp-derived consumable CBD products and seeds to another licensee or such other persons who are in compliance with applicable laws regarding the possession, processing and sale of industrial hemp. A licensee may only receive hemp including hemp derivatives, hemp-derived consumable CBD products and seeds from another licensee or certified source, whether intrastate or interstate, provided the licensee's or certified source's products comply with the Act, these Regulations, and all other applicable laws.
2. Any transfer to or from an approved testing facility shall be in accordance with transfer procedures adopted by the licensee and the approved testing facility and which comply with any applicable Rules and Regulations contained in Licensing Analytical Laboratories for Sampling and Testing Medical Marijuana, 216-RICR-60-05-6.

3. Nothing in these Regulations shall be construed to prohibit wholesale or retail sale of hemp, hemp seeds, hemp derivatives and/or products provided the hemp, hemp seeds, hemp derivatives and/or products comply with the Act, these Regulations, and all other applicable laws.
4. Licensees may only send, sell, buy and/or receive industrial hemp, hemp seeds, hemp derivatives and hemp-derived consumable CBD products from another licensee or a certified source whether interstate or intrastate provided the sender and/or recipient's products comply with the Act, these Regulations and other applicable laws.
5. § 1.11(B)(4) of this Part shall not be construed as a prohibition on the transportation or shipment of hemp, hemp derivatives, or hemp products through the State of Rhode Island, nor shall it be construed to prevent the sale of hemp products or hemp-derived consumable CBD products from a retail licensee to a consumer.

#### C. Inventory Tagging

1. Pursuant to R.I. Gen. Laws § 2-26-5(c)(3), every hemp crop or production batch possessed by a licensee must be tracked from seed to sale. A unique identifier must accompany industrial hemp through any production the licensee is undertaking, from harvest through packaging, distribution and sale to a consumer.
2. Upon direction by DBR, labels and any other tracking method required shall be placed in a manner to clearly display their association with a particular parcel of land, plant material, or product. This may include but is not limited to affixing the label/other tracking display to a post or sign on the parcel of land where hemp is grown, affixed to a drying rack, affixed to a container, or package containing product.
3. Each acre or parcel of land, as defined by DBR, containing hemp must be labeled with the following information:
  - a. DBR license number;
  - b. Unique identifier;
  - c. Licensed premises location; and
  - d. Any other information or technical functions DBR deems appropriate (such as radio frequency identification).

- ~~1. Pursuant to R.I. Gen. Laws § 2-26-5(c)(3), every hemp crop or production batch possessed by a licensee must be tracked in the seed to sale tracking system. Use of the Agricultural Pilot Program Tracking System may require the licensee to utilize a tracking tag, certificate or other similar method approved by DBR in its discretion.~~
- ~~2. Properly using the Agricultural Pilot Program Tracking System, payment of the biennial license fee, and compliance with the requirements of this subsection shall be deemed to satisfy the requirements of R.I. Gen. Laws § 2-26-5(c)(3).~~
- ~~3. Licensees must ensure that a tracking certificate containing the total size and location of the licensed area used for growing hemp and the approximate number of hemp plants therein, is placed in a manner to clearly display its association with the licensed area where hemp is grown. Each acre, or parcel of land as defined by the Department, containing hemp must also be marked with an Agricultural Pilot Program Tracking System unique identifier tag certificate through each stage of growth. A tracking system unique identifier tag or label must accompany industrial hemp through any production the licensee is undertaking, from harvest through packaging, as may be applicable and as directed by the Department.~~
- ~~4. Agricultural Pilot Program Tracking System unique identifier tag certificates and labels shall contain the following information and/or technical functions~~
4. Any container intended for the storage and/or transport of hemp and/or hemp derivatives must:
  - a. Protect the product from contamination;
  - b. Not impart any toxic or deleterious substance to the hemp or hemp product;
  - c. Be labeled with the following information:
    - a(1) DBR license number;
    - b(2) Unique identifier\_(s) (such as barcodes, numerical or alphabetical codes, or Radio Frequency Identification) that tracks hemp through each stage of growth, and production, distribution and sale;
    - (3) Quantity;



~~e.~~(4) Licensed premises location; and

~~d.~~(5) Any other information or technical functions DBR deems appropriate (such as radio frequency identification).

~~5. Seed to sale tracking, payment of the biennial license fee, and compliance with the requirements of § 1.11(C) of this Part shall be deemed to satisfy the requirements of R.I. Gen. Laws § 2-26-5(c)(3).~~

~~5. Agricultural Pilot Program Tracking system unique identifier tag certificates and labels shall not be altered or duplicated.~~

~~6. Unique identifier tags, tracking certificates, or any other tracking method required to use the tracking system shall be placed in a manner to clearly display their association with a particular parcel, plant material, or product, such as affixed to the plant itself, affixed to a post or sign on the parcel of land where hemp is grown, by affixing the tag to the stalk for drying on the stalk, on a label affixed to a storage/transport or other package and other reasonable means as directed by the DBR.~~

~~7. The unique identifier tags may not be transferred or assigned except with the prior written approval of the DBR.~~

~~8. Return of unique identifier tag certificates by a licensee upon revocation, suspension or abandonment of the license shall be specifically governed by DBR order or agreement and/or coordinated efforts with law enforcement. Disposal of unique identifier tag certificates by a licensee as may be required by DBR, such as in the regular course of tagging if different stages will require different tag forms or such as recall of tags due to new technology, shall be handled in accordance with further instructions provided by DBR.~~

#### D. Inventory Control

~~1. Upon direction by DBR, each licensee shall utilize the state approved Agricultural Pilot Program Tracking System for all inventory tracking from seed to sale as further defined herein.~~

~~12. If the licensee is notified by DBR that the Agricultural Pilot Program Tracking System is not available, the licensee will be provided with direction as to alternative~~A licensee shall follow inventory control measures, which may include but are not necessarily limited to the licensee being directed to:

- a. Conduct an initial comprehensive inventory of all hemp, including hemp plants, hemp seedings, hemp-derived products and hemp-derived consumable CBD products and seedlings as of a date certain set by DBR.
  - b. Conduct subsequent comprehensive inventories at intervals not to exceed twenty four~~twelve~~ (24)12 months from the date of the previous comprehensive inventory.
  - c. Conduct a monthly inventory review of hemp plants, stored hemp, hemp-derived products and hemp-derived consumable CBD products and stored hemp.
- ~~32.~~ Upon request, DBR may require the Licensees shall to conduct and provide the results of alternative the inventory control measures specified in § 1.11(D)(1) of this Part outlined above, if required by DBR regardless of the availability and use of the Agricultural Pilot Program Tracking System.
- ~~4.~~ Licensees may only obtain industrial hemp, hemp seeds, or hemp derivatives from another licensee or a certified source, provided the licensee's products comply with the Act, these regulations and other applicable laws.

## E. Security

### 1. General Security Requirements

- ~~a.~~ Use or carry of firearms on the premises and/or perimeter of the licensee is a prohibited form of security, except by security guards licensed by the Office of the Rhode Island Attorney General pursuant to R.I. Gen. Laws § 5-5.1-13Chapter 5-5.1 and who are under written contract to provide security services to the licensee and by law enforcement personnel during duty.

### 2. Emergency Plan

- ~~a.~~ The licensee shall develop and maintain an emergency plan with procedures to be followed to prevent and, if not prevented, to adequately address and mitigate consequences of theft or burglary or attempts thereof, fire, natural disasters, and other emergencies, including cybersecurity and data breach procedures to prevent a compromise of the integrity of the Agricultural Pilot Program Tracking System. The plan shall include training for employees on crime prevention and personal safety techniques.

### 3. Record-Keeping

a. The licensee shall maintain the following documentation on-site and with digital back-up for a period of at least ~~thirtytwo~~<sup>thirtytwo</sup>-~~sixfour~~<sup>sixfour</sup> (3624) months ~~after the event~~ as applicable:

~~(1)a.~~ Inventory records including, at a minimum, the date the inventory was conducted, a summary of the inventory findings and the name, signature and title of the individual who conducted the inventory.

~~(2)b.~~ Testing results, all certificates of analysis and sampling records; ~~which can be satisfied by use of the Agricultural Pilot Program Tracking System.~~

~~(3)c.~~ Any pesticide use as required by § 1.4011(HK)(4) of this Part.

~~(4)d.~~ Emergency notification reports as required by §1.4011(E)(4) of this Part.

~~(5)~~ A description of the land on which licensee's hemp is grown including the requirements of § 1.6(D)(2) of this Part.

~~(6)~~ All sales.

~~(7)~~ All documentation for the intrastate transfer and receipt of hemp, hemp-derivatives and hemp-derived consumable CBD products demonstrating the products' compliance with the sending or receiving State's licensing of industrial hemp and/or hemp-derived products, including but not limited to any document regarding certification as defined in § 1.5(E) of this Part.

~~(8)~~ Any documentation of or relating to the destruction of hemp plants or hemp material.

### 4. Emergency Notifications and Reports

a. Licensees shall provide notification of emergency events to DBR and municipal and/or State law enforcement as outlined below.

b. Immediately upon discovery of the event, the licensee shall provide telephone notification to the appropriate municipal and/or State law

enforcement authorities regarding any of the following "emergency events":

- (1) Theft or burglary or an attempt thereof.
- (2) Any fire.
- (3) A natural disaster that results in the destruction of or damage to hemp or hemp products.
- (4) Any other event which requires response by law enforcement or public safety personnel.

- c. The licensee shall provide e-mail notification to ~~the Office~~DBR immediately upon discovery of any data breach or cybersecurity threat to the ~~Agricultural Pilot~~ Program Tracking System, and within twenty-four (24) hours of discovery of any other emergency event as defined above. A follow-up telephone notification to DBR shall be provided not later than the next business day.
- d. The licensee shall submit a follow-up written report to DBR within five (5) business days for each emergency event. The written report shall include, at a minimum, a description of the event(s), identification of known or suspected cause(s) for the event(s), any corrective action(s) taken to prevent a recurrence, and the name, title, and signature of the individual preparing the report.
- e. Any notification and report of an emergency event required to be made to DBR pursuant to these Regulations shall be made using the mailing address, telephone number, and/or e-mail address provided by DBR to approved licensees.
- f. Upon written direction to the licensee, DBR may require that the written and telephone notifications and reporting must be replaced or supplemented by notifications and reporting through the ~~Agricultural Pilot~~ Program Tracking System or any other electronic system or means DBR mandates the licensee to utilize.

#### F. Food Safety

~~1. Any hemp-derived product or product containing hemp or a hemp-derived substance~~hemp-derived consumable CBD product that is intended for consumption~~that may be used for consumption purposes~~ must be produced and distributed consistent with any applicable State or local food processing and

safety Regulations, and the applicant shall be responsible to ensure its compliance with such Regulations and any applicable licensing requirements.

G. Packaging and Labeling Requirements for Hemp-Derived Consumable CBD Products

1. Packaging Requirements

a. ~~Any container or packaging containing hemp or hemp product intended for consumption, including packaging for the purpose of storage and/or authorized transport, must~~hemp-derived consumable CBD products must:

(1) Be opaque, of a neutral color as defined in § 1.5 of this Part, and light resistant;

(2) Fully enclose the product;

(3) Protect the product from contamination;

(4) Be Child-Resistant as defined in § 1.5 of this Part; and

(5) Not impart any toxic or deleterious substance to the hemp product;

a. ~~Protect the product from contamination;~~

b. ~~Not impart any toxic or deleterious substance to the hemp or hemp product;~~

e. ~~Contain the inventory tracking ID number assigned by the Agricultural Pilot Program Tracking System; and~~

d. ~~Be labeled with the quantity of the product.~~

2. Labeling Requirements

a. Any container or packaging containing hemp-derived consumable CBD products must be labeled with the following information:

(1) The business(es) or tradename(s) and license number(s) of the licensee(s) who produced the product;

(2) The business or tradename and license number of the licensee selling the product

- (3) Unique identifier;
- (4) Total weight in ounces and grams or volume as appropriate. Weight and volume must be determined using accurately calibrated equipment which equipment must also comply with any other applicable State laws;
- (5) Total contents of THC and CBD must be stated per serving unit and per package in milligrams (mgs) as determined by an approved testing facility and in font larger than size six (6), bolded, underlined and in red, so as to stand out from surrounding text to the consumer;
- (6) The serving size;
- (7) The number of servings per package;
- (8) If solvents were used in production, statement that discloses the type of extraction method, including any solvents, gases, or other chemicals or compounds used to produce or that are added to the extract;
- (9) Any applicable instructions for use and safe storage; and
- (10) A DBR-selected universal symbol must appear on the front or the most predominantly displayed area of the package, no smaller than one inch (1") by one inch (1").

b. Labeling text must be:

- (1) No smaller than size six (6) font, unless otherwise specified.
- (2) In Times New Roman, Calibri, Arial, Helvetica or any other font determined by DBR to be easily readable.
- (3) In black or white, unless otherwise specified.
- (4) Clearly written or printed in the English language. In addition to the required English label, licensees may include an additional, accurate foreign language translation on the label that otherwise complies with these Rules.

23. Packaging and Labeling Prohibitions.

- a. Packaging and labeling of hemp-derived consumable CBD products shall not:

- (1) Make any medical claims;
- (2) Reasonably appear to target individuals under the age of twenty-one (21), including but not limited to the use of animal characters, toys, cartoon characters or similar images;
- ~~a.~~(3) Make any false or misleading statements including false or misleading statements regarding health or physical benefits or as to the composition and profiles;
- ~~b.~~(4) Contain any seal, flag, crest, coat of arms, or other insignia that could reasonably mislead any reasonably prudent person to believe that the product has been endorsed, produced or manufactured by the State of Rhode Island or any agency thereof or municipality within;
- (5) Include images of children or minors;
- (6) Include words, a design or brand that resembles a product that is commonly associated with children or minors or marketed to children or minors;
- (7) Include symbols or celebrities that are commonly used to market products to minors;
- (8) Include the word or make any reference to “candy” or “candies.”

~~3. All hemp and hemp products must include a label affixed to the package containing the following information, prominently displayed and in a clear and legible English language font:~~

- ~~a. Inventory tracking ID number assigned by the Agricultural Pilot Program Tracking System;~~
- ~~b. Total weight in ounces and grams or volume as appropriate. Weight and volume must be determined using accurately calibrated equipment which equipment must also comply with any other applicable state laws; and~~
- ~~c. Total amount of THC as determined by approved testing and total amount of any other constituents determined by testing including CBD.~~



d. ~~If solvents were used in production, statement that discloses the type of extraction method, including any solvents, gases, or other chemicals or compounds used to produce or that are added to the extract.~~

e. ~~Any applicable instructions for use and safe storage.~~

#### 4. Warnings

a. ~~All. All hemp and hemp products~~ hemp-derived consumable CBD products intended for retail sale must include a label affixed to the package or an insert provided with the packaging containing the following warnings, prominently displayed and in a clear and legible English language font: ~~This warning may be on an insert provided with the packaging.~~

~~a.(1)~~ "Warning: This product is not certified to be free of contaminants, is derived from industrial hemp, is not medical marijuana, and has not been analyzed or approved by the FDA."

~~b.(2)~~ If applicable, a warning regarding use or contact with any nuts or other known allergens as defined in the federal Food Allergen Labeling and Consumer Protection Act of 2004, Pub. Law 108-282, as administered by the FDA.

#### H. Product Prohibitions

1. No hemp-derived consumable CBD product intended for retail sale shall:

(a) Be in the shape of a human, animal, fruit, cartoon character, or any other shape that is especially attractive to children as determined by DBR;

(b) Be in the shape of a cannabis plant or leaf;

(c) Be combined with alcohol, tobacco, and/or nicotine.

(d) Cause a reasonable consumer confusion as to whether the product is a trademarked product; and/or

(e) Violate any State or Federal trademark law or Regulation.

(f) Be in a form or intended to be used for aerosolization or vaporization.

I. Advertising and Marketing.

1. No advertising and marketing of hemp, hemp derivatives or hemp-derived consumable CBD products shall without prior written approval of the U.S. Food and Drug Administration ("FDA"), be marketed for, or make claims regarding the use or benefit in diagnosis, cure, mitigation, treatment, or prevention of diseases, or any other therapeutic, dietary or medical benefits or claims.
2. No advertising and marketing of hemp, hemp derivatives or hemp-derived consumable CBD products shall contain any content that can reasonably be considered to target individuals under the age of twenty-one (21) years, including but not limited to images of persons under twenty-one (21) years of age, cartoons, toys or similar images and items typically marketed towards persons under twenty-one (21) years of age or references to products that are commonly associated with persons under twenty-one (21) years of age or marketed to persons under twenty-one (21) years of age.
3. No licensee shall advertise in any way which may lead a consumer to believe that the licensee is using marijuana or engaged in an activity which is illegal under State law.
4. No advertising and marketing of hemp, hemp derivatives or hemp-derived consumable CBD products shall display images or representations of cannabis plants, cannabis or cannabis products.

J. Retail Sales

1. A retail licensee shall only allow persons twenty-one (21) years of age or older to purchase hemp-derived consumable CBD products, in accordance with R.I. Gen. Laws § 2-26-3(9).
2. Pursuant to DBR's authority under R.I. Gen. Laws § 2-26-6(b), a retail licensee must verify that every purchaser of a hemp-derived consumable CBD product is compliant with § 1.11(J)(1) of this Part by a review of the intended purchaser's government-issued identification.
3. A retail licensee shall place all hemp-derived consumable CBD products in a location separate from all other products sold by that retail licensee and that location must be prominently identified as containing hemp-derived consumable CBD products. DBR may, in its discretion approve alternative placement.

4. A retail licensee shall not give away free samples of hemp, hemp derivatives or hemp-derived consumable CBD products to any consumers.

5. A retail licensee shall not offer for sale any CBD product intended to be used for aerosolization or vaporization.

**KH.** Pesticide Use and Record-Keeping

1. The cultivation process shall use best practices to limit contamination of industrial hemp and hemp products, including but not limited to mold, mildew, fungus, bacterial diseases, rot, pests, pesticides, and any other contaminant identified as posing potential harm.
2. The use of pesticides on industrial hemp plants in Rhode Island by licensed growers will not be considered a violation of these Regulations provided that the product is registered and properly labeled under § 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), Pub. Law 61-152, and satisfies §§ 1.1~~10~~11(~~HK~~)(2)(b)(~~(1)~~) and 1.~~40~~11(~~HK~~)(2)(f) and (g) of this Part below; or the product must satisfy all of the following criteria:
  - a. The product must be a "minimum risk pesticide" under 40 C.F.R. § 152.25(f), incorporated above at § 1.4(A) of this Part.
  - b. The product must be labelled for use on either:
    - (1) "Cannabis," "hemp,"; or
    - (2) "All plants," "other plants," bedding plants, unspecified plants, or unspecified crops.
  - c. The label must not prohibit indoor or greenhouse use, as applicable.
  - d. All active ingredients must be eligible for food use as determined by the federal Environmental Protection Agency ("EPA") Active Ingredients Eligible for Minimum Risk Pesticide Products, incorporated above at § 1.4(B) of this Part.  
<https://www.epa.gov/sites/production/files/2018-01/documents/minrisk-active-ingredients-tolerances-jan-2018.pdf>.
  - e. All inert/other ingredients must be eligible for food use. See EPA's Inert Ingredients Eligible for FIFRA 25(b) Pesticide Products, incorporated above at § 1.4(C) of this Part.  
<https://www.epa.gov/sites/production/files/2016->

[11/documents/minrisk\\_inert\\_ingredients\\_w\\_tolerances\\_2016-11-16.pdf](#).

- f. The product must be a currently registered pesticide product eligible for sale in Rhode Island as determined by DEM. To verify a product's registration in Rhode Island, please consult the online National Pesticide Information Retrieval System through the Center for Environmental and Regulatory Information Systems. See [http://npirspublic.ceris.purdue.edu/state/state\\_menu.aspx?state=RI](http://npirspublic.ceris.purdue.edu/state/state_menu.aspx?state=RI).
  - g. The product must be used in accordance with any and all use instructions on the label.
- 3. Pesticides shall be identified, held, stored and disposed of in a manner that protects against contamination of industrial hemp and industrial hemp products and in a manner that is in accordance with any applicable local, State, or Federal law, Rule, Regulation, or ordinance.
  - 4. As a DBR record-keeping requirement, licensees must keep detailed records of any pesticide products used and application regimens. This record-keeping requirement is independent of that required of commercial pesticide applicators by the ~~Rhode Island Department of Environmental Management~~DEM, and is intended to apply in addition to that requirement, where relevant.

#### L. Recalls

- 1. Licensed growers, handlers, distributors and retailers shall have policies and procedures for handling voluntary and mandatory recalls of all hemp, hemp derivatives and hemp-derived CBD products. Such procedures shall be adequate to deal with recalls due to any action initiated at the request or order of DBR, and any voluntary action by a grower, handler, distributor or retailer to remove defective or potentially defective hemp, hemp derivatives or hemp-derived consumable CBD products from the market, as well as any action undertaken to promote public health and safety.
- 2. DBR or RIDOH may require a licensee to recall any hemp, hemp derivatives or hemp products the licensee has sold or transferred upon a finding that circumstances exist that pose a risk to public health, safety and welfare.
  - a. The recall must be initiated by the licensee immediately as determined by their recall plan; and

- b. The licensee must comply with any additional instructions made by DBR.

#### M. Destruction

1. Prior to disposal, the hemp must be made unusable and indistinguishable from other plant material. This may be accomplished by grinding and incorporating the offending material with other non-consumable solid waste or other ground materials, so the resulting mixture is at least fifty percent (50%) non-hemp waste by volume.
  - a. Other methods to render the hemp unusable must be approved by DBR before implementation.
  - b. Hemp that is rendered unusable following an approved method may be delivered to a licensed solid waste disposal facility in Rhode Island for final disposition or disposed of in an alternative manner approved by DBR.
  - c. All destructions must be documented by the Licensee.

### 1.124 **Methods of Extraction**

- A. Pursuant to R.I. Gen. Laws § 2-26-8(b), no butane method of extraction shall be permitted.
- B. Pursuant to RI. Gen. Laws § 2-26-8(a), ~~permissible methods of extraction shall only be conducted using the following methods~~ only the following methods of extraction are permissible:
  1. Mechanical extraction;
  2. Chemical extraction using a nonvolatile solvent such as a nonhydrocarbon-based food grade solvent, or other nonvolatile solvent such as water, vegetable glycerin, vegetable oils, animal fats, or food-grade glycerin; ~~Nonhydrocarbon-based solvents shall be food grade.~~
  3. Chemical extraction using a professional closed loop CO2 gas extraction system;
  4. Chemical extraction using a volatile solvent, provided the solvent and extraction method is authorized and approved by DBR; and
  5. Any other method authorized and approved by DBR.

- C. If any method uses a flammable/combustible material or heat source, the method must also be approved by DEM, the State Fire Marshal and/or local fire department.

## **1.132 Licensees' Reporting Requirements and Submissions**

### **A. ~~End of Year Reporting~~**

- A1.** The Grower shall submit an end-of-year report, on a form prescribed by DBR, on or before the first (1<sup>st</sup>) day of December of each calendar year ~~a form prescribed by DBR, with their renewal application or if a licensee is not applying for renewal for the following two year period on or before the last day of the month next preceding the month in which the license will expire~~ including but not limited to, ~~indicating, at a minimum,~~ the following information:

- 1a.** Variety and source of hemp plants or seeds used for growth;

a. Copies of certificates of analyses showing the industrial hemp seeds obtained for cultivation are from a certified source and is of a type or variety that do not exceed the maximum concentration of THC as set forth in the Act, as applicable; and

b. Copies of certificates of analyses showing the industrial hemp flower required testing results from a certified laboratory.

- 2b.** Method(s) used to grow hemp;

- 3e.** Variety of hemp grown;

- 4d.** Purpose of crop;

- 5e.** Harvested amount and description of quality;

- 6.** Destruction events and quantities;

- 7f.** End destination or use of crop; ~~and~~

- 8g.** Volunteer Plants, if any occurred, and how they were managed; ~~and-~~

- 9.** A grower's hemp crop acreage, his/her State issued license number and any other required information to the Farm Service Agency on a yearly basis, if applicable.

- B2.** The Grower shall also be responsible for information sharing with the United States Department of Agriculture, the Agriculture Marketing Service, and Farm

Service Agency pursuant to 7 C.F.R. §§ 990.3(a)(9) and 990.7, specifically including compilation and transmittal of the following information:

1. Hemp crop acreage;
2. Total acreage of hemp planted, harvested and disposed;
3. Street address;
4. Geospatial location(s) of each lot or greenhouse where hemp will be produced; and
5. Acreage of greenhouse or indoor square footage dedicated to the production of hemp.

C. The Handler shall submit an end-of-year report, on a form prescribed by DBR, on or before the last day of the calendar year including but not limited to the following information~~The Handler shall submit an end-of-year report, on a form prescribed by DBR, with their renewal application or if a licensee is not applying for renewal for the following two-year period on or before the last day of the month next preceding the month in which the license will expire, indicating, at a minimum, the following information:~~

- 1a. Variety and source of hemp used for production;
- a. Copies of certificates of analyses showing the industrial hemp obtained does not exceed the maximum concentration of THC as set forth in the Act, as applicable;
- 2b. Method(s) used to process ~~and produce~~ hemp and produce hemp products;
- 3e. Amount of hemp used in production;
4. Destruction quantities;
- 5d. A description of the end product resulting from the method(s) described in § 1.124(B) of this Part;
- 6e. A description of the quantity and quality of the hemp product that the handler produced; and
- 7f. End destination or use of hemp produced.

D. The Distributor and Retailer shall submit an end-of-year report, on a form prescribed by DBR, including but not limited to the following information:



1. Annual sales, including but not limited to details of product sold, quantity of each product sold and price per unit sold;
2. Transportation manifests for product identified in § 1.13(C)(1) of this Part, including but not limited to product received and delivered; and
3. Copies of certificates of analyses showing the industrial hemp and/or hemp products obtained does not exceed the maximum concentration of THC as set forth in the Act, as applicable.

~~B. Research Reporting~~

- ~~1. The licensee must conform its research to that which it proposed in its application. If the licensee wants to perform research other than that which it proposed in its application, it must submit an amended research proposal to DBR no later than sixty (60) days from the date of the initial application or within such other time as DBR shall approve.~~
- ~~2. The licensee must submit to DBR a summary of the research that it conducted during the license period with their renewal application or if a licensee is not applying for renewal for the following two year period on or before the last day of the month next preceding the month in which the license will expire. The research summary must be submitted on a form prescribed by DBR made available on DBR's website, and must include specific data collected by the licensee during the two year period for which it was most recently licensed.~~
- ~~3. In addition to the requirements specified in §§ 1.12(A) and (B) of this Part, DBR may require the Licensee to provide additional reporting as necessary.~~

## **1.143 Institutions of Higher Education**

- A. Pursuant to R.I. Gen. Laws § 2-26-9(a), DBR will certify an institution of higher education to grow or handle, or assist in growing or handling, industrial hemp for the purposes of agricultural or academic research upon submission of the following:
1. The location where the institution of higher education intends to grow or cultivate, or provide assistance with growth and handling of the industrial hemp;
  2. The institution of higher education's research plan;

3. The name and contact information of the employee of the institution of higher education who will supervise the hemp growth, cultivation, research and any record-keeping related to those activities;
4. The name and contact information of the employee of the institution of higher education responsible for communicating research results and reports to DBR; and
5. Such other information as DBR shall request to ensure compliance with the Act and these Regulations.

## **1.154 Violations and Enforcement; Penalties**

A. ~~Any violation of the licensing agreement, the Act or these regulations may be enforced by DBR as an administrative violation and shall be grounds for license suspension or revocation.~~ Inspections and Audits; Enforcement Actions

1. Licensees are subject to reasonable inspection by DBR, DEM and RIDOH. DBR, DEM and RIDOH and their authorized representatives have authority to enter a licensee's premises at reasonable times and to inspect in a reasonable manner, the premises and all equipment, materials, containers, and other things therein, including without limitation all records, files, financials, sales, transport, pricing and employee data, research, papers, processes, controls and to inventory any stock of marijuana, labels, containers, paraphernalia and other materials and products.
2. Nothing herein shall be interpreted to limit the real time access of DBR, DEM and RIDOH to information stored in the Program Tracking System or any other tracking system approved by DBR and consistent with the Act.
3. Pursuant to the Act and consistent with AIA 2018, § 297(B)(e)(2)(A), any licensee who negligently violates the Act or these Regulations, including the occurrence of "negligence" (as defined in these Regulations) on the licensee's part, is subject to a DBR administered corrective action plan to correct the application including:
  - a. A reasonable date by which the licensee shall correct the negligent violation as approved by DBR;
  - b. A requirement that the licensee shall periodically report to DBR on the compliance of the licensee with these Regulations for a period of not less than the next two (2) calendar years; and/or

- c. Any other corrective terms, conditions or exclusions as required by DBR or by 7 C.F.R. § 990.6.
- B. Any action taken by DBR as to any licensee pursuant to § 1.14 of this Part will follow the proscribed procedures outlined in R.I. Gen. Laws § 42-35-1 et seq., the Administrative Procedures Act ("APA"), and Part 10-00-2 of this Title, DBR Rules of Procedure for Administrative Hearings (the "Rules of Procedure")
- 4. Pursuant to the Act and consistent with AIA 2018, § 297(B)(e)(2)(A), any licensee who violates the Act or these Regulations with a culpable mental state greater than "negligence" may be subject to suspension/revocation of his/her license, administrative penalties in accordance with § 1.15(B) of this Part and/or a combination of penalties as provided in R.I. Gen. Laws § 2-26-10. In the event of a violation performed with a greater culpable mental state, DBR shall immediately report such licensee to the Rhode Island Office of Attorney General and the U.S. Attorney's Office (District of Rhode Island) within thirty (30) days of the receipt of such information, in accordance with AIA 2018, § 297(B)(e)(2)(A).
- 5. Any hemp plant or hemp derivative that is determined to be in violation of the Act, these Regulations and/or the AIA 2018 shall be destroyed by or at the direction of DBR or duly authorized State or law enforcement personnel and pursuant to the following:
  - a. Prior to disposal the cannabis must be made unusable and indistinguishable from other plant material. This may be accomplished by grinding and incorporating the offending material with other non-consumable solid waste or other ground materials so the resulting mixture is at least fifty percent (50%) non-cannabis waste by volume.
  - b. Other methods to render the cannabis unusable must be approved by DBR before implementation.
  - c. Cannabis that is rendered unusable following an approved method may be delivered to a licensed solid waste disposal facility in Rhode Island for final disposition or disposed of in an alternative manner approved by DBR.
- 6. Pursuant to 7 C.F.R. § 990.6(c), violations of § 1.15(A)(3) of this Part are not subject to Federal, State, Tribal or local government criminal action.

7. Pursuant to 7 C.F.R. § 990.6(c), DBR shall conduct inspections to determine if corrective action plans as discussed in § 1.15(A)(3) of this Part have been implemented.

B. Administrative Penalties

1. Pursuant to R.I. Gen. Laws § 2-26-10 and § 1.15(A)(4) of this Part, DBR adopts the following schedule of administrative penalties with respect to violations of the Act and/or these Regulations:

<u>Violation</u>	<u>Administrative Penalty</u>
<u>As to violations by a licensee, where DBR determines that a violation does not pose an immediate threat to public health or public safety</u>	<u>A penalty of up to \$1,000.00, per violation per day</u>
<u>As to violations by a licensee, where DBR determines that a violation poses an immediate threat to public health or public safety</u>	<u>A penalty of up to \$2,500.00, per violation per day</u>
<u>As to other violations by any person or entity who is conducting activities requiring licensure by DBR under the Act or these Regulations without such licensure or registration, or who is otherwise violating any provisions of the Act or these Regulations</u>	<u>A penalty of up to \$2,500.00, per violation per day</u>

**1.165- Severability**

If any provision of these Regulations, or the application thereof to any person or circumstance, is held to be invalid, such invalidity shall not affect other provisions or application of these Regulations which can be given effect without the invalid provision or application, and to this end the provisions are declared to be severable.