

## Regulation of Cannabis as Farming or Other

### A. Is Cannabis Cultivation and Manufacturing Farming

#### 1. Definition of Farming under RAPs, 6 V.S.A. chapter 215, and Act 250

“Farming” means:

(A) the cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; or

(B) the raising, feeding, or management of livestock, poultry, fish, or bees; or

(C) the operation of greenhouses; or

(D) the production of maple syrup; or

(E) the on-site storage, preparation and sale of agricultural products principally produced on the farm; or

(F) the on-site storage, preparation, production, and sale of fuel or power from agricultural products or wastes principally produced on the farm; or

(G) the raising, feeding, or management of four or more equines owned or boarded by the farmer, including training, showing, and providing instruction and lessons in riding, training, and the management of equines.

#### 2. Horticultural Crops

- I could not find definition of horticultural crop in State statute or rule (check with AAFM).
- Horticulture is the branch of plant agriculture dealing with garden crops, generally fruits, vegetables, and ornamental plants.
- Horticultural products include all products, raw or processed, that arise from the horticultural industry. International Society for Horticultural Science, at <https://www.ishs.org/defining-horticulture>.
- It is generally accepted by researchers and educators in horticultural science that horticultural crops include:
  - tree, bush, and perennial vine fruits;
  - perennial bush and tree nuts;
  - vegetables, including fruits and flowers of edible and mainly annual plants;
  - aromatic and medicinal foliage, seeds, and roots (from annual or perennial plants);
  - cut flowers, potted ornamental plants, and bedding plants (involving both annual or perennial plants); and
  - trees, shrubs, turf, and ornamental grasses propagated and produced in nurseries for use in landscaping or for establishing fruit orchards or other crop production units. Id.

### 3. Operation of Greenhouse

- Could not find a definition under U.S.D.A. or state statute or rule (check with AAFM/USDA).
- Greenhouse means any operation engaged in the production of agricultural plants inside any structure or space that is enclosed with nonporous covering and that is of sufficient size to permit worker entry. This term includes . . . polyhouses, mushroom houses, rhubarb houses, and similar structures. It does not include such structures as malls, atriums, conservatories, arboretums, or office buildings where agricultural plants are present primarily for aesthetic or climatic modification. U.S. EPA Pesticide Programs, Worker Protection Standards, 40 C.F.R. § 170.3.
- “Greenhouse” means an enclosed structure with or without climate control facilities for growing, displaying and selling plants in a controlled environment. City of Montpelier Subdivision and Zoning Regulations.

### 4. Production of Agricultural Products

- Agricultural Product means any raw agricultural commodity, as defined in 6 V.S.A. § 21(6), that is principally produced on the farm and includes products prepared from the raw agricultural commodities principally produced on the farm. RAP § 2.02.
- “Raw agricultural commodity” means any food in its raw or natural state, including all fruits or vegetables that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing. 6 V.S.A. § 21(6).

## **B. Models for Regulation—Hemp, Medical Marijuana, or Hybrid**

### 1. Hemp—Declared Agricultural Product; 6 V.S.A. § 563

- Statute declares hemp an agricultural product regulated by AAFM.
- Industrial hemp is an agricultural product that may be grown as a crop produced, possessed, marketed, and commercially traded in Vermont pursuant to the provisions of this chapter and section 10113 of the Agriculture Improvement Act of 2018, Pub. L. No. 115-334. The cultivation of industrial hemp shall be subject to and comply with the required agricultural practices adopted under section 4810 of this title.

### 2. Medical Marijuana Dispensaries

- Medical marijuana dispensaries, generally, are not regulated as agriculture or by AAFM and are subject to relevant applicable State environmental and land use law.
- Nothing in this subchapter [18 V.S.A. chapter 86, subchapter 2] shall be construed to prevent a municipality from prohibiting the establishment of a dispensary within its boundaries or from regulating the time, place, and manner of dispensary operation through zoning or other local ordinances. 18 V.S.A. § 4474l.

### 3. Hybrid

- Specify that certain activities are farming, e.g. outdoor cultivation, and other activities are not, e.g. indoor grow.