

Final Proposed Filing - Coversheet

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

**PLEASE REMOVE ANY COVERSHEET OR FORM NOT
REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!**

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

Rule 4: Compliance and Enforcement

_____/s/ James Pepper_____, on 8/15/2023
(signature) (date)

Printed Name and Title:

James Pepper, Chair, Cannabis Control Board

RECEIVED BY: _____

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Minutes
- Copy of Comments
- Responsiveness Summary

1. TITLE OF RULE FILING:

Rule 4: Compliance and Enforcement

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

23P013

3. ADOPTING AGENCY:

Cannabis Control Board

4. PRIMARY CONTACT PERSON:

(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Gabriel M. Gilman

Agency: Cannabis Control Board

Mailing Address: 89 Main Street, Montpelier, VT 05620-7001

Telephone: (802) 261-1510 Fax:

E-Mail: gabriel.gilman@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://ccb.vermont.gov/>

5. SECONDARY CONTACT PERSON:

(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Kimberley Lashua

Agency: Cannabis Control Board

Mailing Address: 89 Main Street, Montpelier, VT 05620-7001

Telephone: (802) 836-7708 Fax:

E-Mail: kimberly.lashua@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:

(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?) Yes

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

7 V.S.A. §§ 901a, 952(c), and 973(b).

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

The exemption in 7 V.S.A. § 952(c) protects the privacy of individuals with diagnosed medical conditions. The exemptions in 7 V.S.A. §§ 901a and 973(b) keep certain cannabis business information confidential that is related to public safety, security, transportation, and trade secrets in order to keep citizens safe and

maintain a fair commercial playing field for cannabis operations.

7. **LEGAL AUTHORITY / ENABLING LEGISLATION:**

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

7 V.S.A. § 843(b)(1), 7 V.S.A. § 882.

8. **EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:**

The following statutory citations provide legal authority for the provisions of the proposed rule: 7 V.S.A. §§ 863, 864, 881, 882, 32 V.S.A. § 7906.

9. **THE FILING HAS CHANGED SINCE THE FILING OF THE PROPOSED RULE.**

10. **THE AGENCY HAS INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.**

11. **SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.**

12. **THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.**

13. **THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.**

14. **CONCISE SUMMARY (150 WORDS OR LESS):**

This rule provides the enforcement mechanisms, procedures, and penalties for the Cannabis Control Board's Rules 1 through 3, which govern the licensing and regulation of commercial cannabis businesses and patient access to therapeutic cannabis. The most substantial proposed amendment adds a section governing the administrative appeals process. The new section controls the content and management of the record on appeal, provides for appellate prehearing conferences, explains briefing and argument procedures, and ensures licensees are made aware of further statutory rights.

15. **EXPLANATION OF WHY THE RULE IS NECESSARY:**

The rule is necessary for the Board to ensure a safe and fair legalized market for cannabis in Vermont.

Enforcement mechanisms help assure product safety, consumer safety, and public safety. They also assure that all participants in the market are held to the same operational standards and share the regulatory burden fairly.

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

This is not a new rule, but rather an amendment to an existing rule. There is extensive factual and procedural basis for this rule, the rule is rationally connected to the factual and procedural basis, and the Board believes the rules make sense to a reasonable person.

In formulating its enforcement mechanisms the Board drew extensively from the experience of other states in providing for safe, fair cannabis markets in places with experience in enforcement.

The decisions embodied by these rules are directly and rationally connected to the input the Board has received. The decisions made by the Board in drafting these rules will make sense to a reasonable person.

17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

All potential cannabis businesses, as well as currently registered participants in Vermont's therapeutic cannabis system will be affected by this rule. This includes currently registered patients, caregivers, and dispensaries. Ancillary businesses that service cannabis operations will see significant commercial opportunities with the implementation of the legalized market.

The rule may affect government entities such as the Department of Health, the Agency of Agriculture, Food, and Markets, the Board of Natural Resources, the Agency of Natural Resources, and others.

18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

There will be no economic impact from the proposed amendment. The amendment adds a rule governing appellate procedure for those who choose to appeal a final decision of the Board in accordance with 7 V.S.A. 847. This amendment codifies in rule a pre-existing policy on appeals. Administrative appeal--that is, independent review within the agency prior to judicial review--is required by statute. Although administrative appeals burden agency resources, each instance in which error is identified and resolved without judicial intervention may tend to save the appellant licensee and the appellee agency between \$3,000 and \$5,000, in addition to relieving the Judiciary's case burden.

19. A HEARING WAS HELD.

20. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 5/10/2023

Time: 10:00 AM

Street Address: 89 Main Street, Montpelier, VT

Zip Code: 05620-7001

Date: 5/15/2023

Time: 06:00 PM

Street Address: 89 Main Street, Montpelier, VT

Zip Code: 05620-7001

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

05/22/2023

KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Cannabis

Compliance

Enforcement

Penalty

Fine



CANNABIS CONTROL BOARD

89 Main Street Montpelier, VT 05602 | ccb.vermont.gov

August 15, 2023

General Assembly
Legislative Committee on Administrative Rules
State House Room 10
115 State Street
Montpelier, Vermont 05633-5301

Re: 23P013–Rule 4: Compliance and Enforcement

Chair Squirrel and Members:

Herewith, please find the Cannabis Control Board’s final proposed rule filing concerning the rule captioned above.

The rule is the product of substantial public outreach and incorporates feedback received not only at two public rule hearings, but also at multiple CCB meetings and outreach events since. To ensure all participants had an opportunity to comment upon proposals to amend the rule, the Board republished an intermediate draft and held open the public comment period until the July meeting at which the final text was approved.

In keeping with conventional practice, this final proposed rule is filed with markup comparing it to the adopted rule it proposes to amend. Markup comparing the initial proposed rule to the final proposed rule is available at your request, as are recordings of the public hearings and boards hearings at which the rule was discussed.

Please do not hesitate to contact me at the number below if the members or staff have questions.

Very truly yours,

Gabriel M. Gilman
General Counsel
tel. 802.261.1510
gabriel.gilman@vermont.gov



CANNABIS CONTROL BOARD

89 Main Street Montpelier, VT 05602 | ccb.vermont.gov

August 15, 2023

General Assembly
Legislative Committee on Administrative Rules
State House Room 10
115 State Street
Montpelier, Vermont 05633-5301

Re: Amendments Following Initial Proposed Rule Filing

Chair Squirrel and Members:

The proposed rule filed herewith has been amended since filing with the Secretary of State. Amendments were provoked by stakeholder feedback received during the notice and comment period, by internal editorial and legal review, and in some cases, by unanticipated developments in the newly regulated cannabis marketplace.

Each amendment is listed and explained below. Pursuant to 3 V.S.A. § 841(b)(2) explanatory notes identify substantial arguments that were accommodated or overruled.

Section: 4.4.15

Change: Reference to 7 V.S.A. § 901(h) updated to refer to § 901a

Reason: Act 65 (2023) relocated privacy provisions to a new section 901a.

Known Objections: None.

Section: 4.5.2(r)

Change: Added failure to report lost, stolen, or adulterated product to list of express category II violations.

Reason: Clarifying. The Board views failure to report known hazards as an actionable violation under current law and rule, but staff commenters felt the principle should be made express and assigned to a severity category.

Known Objections: None

Section: 4.15

Change: Reference to 7 V.S.A. § 901(h) changed to § 901a.

Reason: Technical. Act 65 (2023) relocated the confidentiality statute to a new section. This amendment preserves the accuracy of the cross-reference.

Known Objections: None.

We are grateful for the Committee's thoughtful review of the proposed rule and the amendments made to it as a result of feedback. Should you have questions in advance of the Committee's review of the rule, please do not hesitate to call or email.

Very truly yours,

A handwritten signature in black ink, appearing to read 'G. Gilman', with a long horizontal stroke extending to the right.

Gabriel M. Gilman
General Counsel
tel. 802.261.1510
gabriel.gilman@vermont.gov

Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:

Rule 4: Compliance and Enforcement

2. ADOPTING AGENCY:

Cannabis Control Board

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

Adopted Rule #: 22-015. Rule 4: Compliance and Enforcement. Effective Date: 4/19/2022.



INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

Meeting Date/Location: January 9, 2023, virtually via Microsoft Teams
Members Present: Chair Sean Brown, Brendan Atwood, Diane Bothfeld, Jennifer Mojo, John Kessler, Diane Sherman, Mike Obuchowski and Donna Russo-Savage
Members Absent: Jared Adler
Minutes By: Melissa Mazza-Paquette

- 2:01 PM meeting called to order, welcome and introductions.
- Review and approval of minutes from the December 12, 2022 meeting.
- Original agenda approved as drafted with the following change:
 - The next scheduled meeting was moved from Monday, February 13, 2023 to Wednesday, February 22, 2023, 2:00 PM.
- No public comments made.
- Presentation of Proposed Rules on pages 2-8 to follow.
 1. HazMat Transportation & Motor Carrier Safety Standards, Agency of Transportation, Department of Motor Vehicles, page 2
 2. Rule 1: Licensing of Cannabis Establishments, Cannabis Control Board, page 3
 3. Rule 2: Regulation of Cannabis Establishments, Cannabis Control Board, page 4
 4. Rule 4: Compliance and Enforcement, Cannabis Control Board, page 5
 5. Home Visiting Rule, Vermont Department of Health, page 6
 6. STep Ahead Recognition System (STARS) Rules, Department for Children and Families, page 7
 7. Privacy of Consumer Financial and Health Information, Department of Financial Regulation, page 8
- Other business: Diane Bothfeld noted her upcoming retirement from the State of Vermont this month and therefore this was her last ICAR meeting.
- 3:32 PM meeting adjourned.

Proposed Rule: Rule 4: Compliance and Enforcement, Cannabis Control Board

Presented By: Brynn Hare

Motion made to accept the rule by Mike Obuchowski, seconded by Diane Sherman, and passed unanimously with the following recommendations:

1. Proposed Filing Coversheet:
 - a. #7: Revise to include how the rule is within the authority of the agency.
 - b. #8 and #9: Include more details as to proposed changes and what the proposed rule specifically is doing.
 - c. #12: Include data, projected data, or a range on how much one amendment could increase. Include any favorable impacts.
 - d. #14: Include a virtual option when scheduling.
2. Economic Impact Analysis:
 - a. #3: Include the estimated costs and benefits anticipated. Reword and clarify 'won't have a significant impact'; quantify if possible, including data and/or range.
 - b. #6: Remove 'a' before 'no impact...'
 - c. #7: Narrow and modify regarding the amendment addition of the appeal.
3. Incorporation by Reference: Form not necessary.
4. Proposed Rule: Included who the hearing officer is.

DRAFT

Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn’t appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

1. TITLE OF RULE FILING:

Rule 4: Compliance and Enforcement

2. ADOPTING AGENCY:

Cannabis Control Board

3. CATEGORY OF AFFECTED PARTIES:

LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

The proposed amendments are not expected to have a significant impact on licensees or stakeholders. Those affected generally by the rule include include individuals and companies that are in the adult-use cannabis market, cannabis consumers, existing medical cannabis businesses, dispensaries, patients and caregivers, testing facilities, banking and insurance

industries, the Cannabis Control Board, and local governments.

Although administrative appeals burden agency resources, each instance in which error is identified and resolved without judicial intervention may tend to save the appellant licensee and the appellee agency between \$3,000 and \$5,000, in addition to relieving the Judiciary's case burden.

4. IMPACT ON SCHOOLS:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

Schools are not affected by this rule.

5. ALTERNATIVES: CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.

Schools are not affected by this rule.

6. IMPACT ON SMALL BUSINESSES:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

The proposed amendment will have no impact on small businesses. It simply specifies a procedure for the legislatively required administrative appeal.

7. SMALL BUSINESS COMPLIANCE: EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.

The simplest way a business can reduce costs and rules associated with administrative compliance and enforcement is to maintain continuous and conscientious awareness of regulatory requirements and to act in conformity with those requirements. Enforcement proceedings are costly to businesses and to the agency, and everyone wins when they are avoided through education and good corporate citizenship.

8. COMPARISON:

COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:

The amendment regarding appellate procedure was adopted from the procedure used by the Office of Professional Regulation. That office's appeals statute is essentially identical to the Board's.

9. SUFFICIENCY: *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

The Board looked to comparable state agencies to formulate a reasonable procedure for appeals. In this case, the agency with the most similar enacting statute for appeals is the Office of Professional Regulation. The Board borrowed its procedure from that office.

Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

1. **TITLE OF RULE FILING:**

Rule 4: Compliance and Enforcement

2. **ADOPTING AGENCY:**

Cannabis Control Board

3. **GREENHOUSE GAS: EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):**

The proposed amendment will have no affect on greenhouse gases.

4. **WATER: EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):**

Enforcement activities will have no impact on water.

5. **LAND: EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):**

Enforcement activities will have no impact on land.

6. **RECREATION:** *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*
Enforcement activities will have no impact on recreation.
7. **CLIMATE:** *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*
The proposed amendment will have no impact on climate.
8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*
None.
9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*
The Board reviewed its original filing of this rule in March, 2022 to ascertain the impact, and extrapolated from that study. The addition of an appellate procedure carries no environmental impact.

Public Input Maximization Plan

Instructions:

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

1. TITLE OF RULE FILING:

Rule 4: Compliance and Enforcement

2. ADOPTING AGENCY:

Cannabis Control Board

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

The Board's strategy has been, and will continue to be, to hear from all possible stakeholders in a legal cannabis market.

The Board's original rule filings were the result of extraordinary public involvement and input, as detailed further in the original filing for Rule 1 in March 2022. These amendments result from the Board's own experience implementing and regulating the cannabis market over the last year, as well as the public input it has received at every public meeting it has--which happen weekly--along with written comments submitted through its web portal.

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

The Board has relied extensively on the expertise of other Vermont state government agencies in its work and

Public Input

development of its rules, including the Department of Health, the Agency of Agriculture, Food and Markets, and the Natural Resources Board.

The Board will continue to seek the advice of experienced regulators to ensure any changes that may be made during the notice and comment period are consistent with the best practices of regulatory experts in the relevant field.

Name	Email:	Phone:	Comments:
Sarah Monroe	sarah@magicmann.com	8643537127	There is a discrepancy in your Equivalency Guide from February 2023. The mixed product type example in this guidance is adding grams of flower and grams of concentrate as if they are the same thing. If you convert everything on that list to mg of THC using the table given on page 3 you will see that it totals to 10,268 mg THC which is way over the limit of 8,400 mg THC!!! If you want the limit to be shown as the equivalence to 28.34 g of flower, then everything needs to be converted to grams of flower. In this case, the grams of solid concentrates should be multiplied by 2, the grams of vape concentrate multiplied by 3.5, and the grams of edibles multiplied by 3.33. Either way, this guidance needs to be revisited as it is allowing people to go over the purchase limit. Onward Analytics is reporting actual potency on their COAs while Bia Diagnostics is reporting dry weight potency. This may seem like a small difference, but people are noticing, and it is causing "lab shopping" in the industry. The regulations call for total THC to be reported on a dry weight basis. This needs to be resolved immediately as it is causing labeling discrepancies and compliance issues. Please put out a guidance to get all labs and licensees on the same page for how potency should be reported!!
Sarah Monroe	admin@magicmann.com	8643537127	A new guidance on batching and lab testing would be great. As a compliance manager at a dispensary, I am constantly educating vendors on which COAs they need for their product to be compliant. I am also having trouble matching batch numbers to product packaging and COAs. I feel very strongly that all extracts, including hash and rosin, should require pesticide and heavy metal testing since they are concentrating the flower enough to potentially go over the limit and make people sick. I also do not like that it is an honor system whether people are using solvents or not. There should be a way to tell this other than just taking the manufacturer's word for it, or all concentrates should be treated the same way with residual solvent, pesticide, and heavy metal. I am also seeing strains that are registered but go over the 13% moisture content limit. I think this limit should be raised to 15% (as this is the limit in many other states), so that so many growers are not going over the limit. I'm contacting you in support of my local Grow Pro where I've been purchasing quality hemp CBD products. I'm no longer able to purchase products there due to a recent decision by the CCB. I firmly believe that 1 mg of THC per serving is ridiculously low. A gummie with 5 mg THC sourced from hemp is the minimum amount found to be useful, and 10 mg is a better dose. I use the gummies for sleep and relief of musculoskeletal pain. Your ruling is having an adverse effect on disabled and senior Vermonters. I now buy directly from the manufacturer instead of from my local Grow Pro. So I'm not able to support a local Vermont business and VT is missing out on tax revenues. This makes no sense. Please reconsider this rule.
Jill Aube	jillauve@hotmail.com		The board has gone back and forth a few times regarding if the rule for pesticide testing should apply to a harvest lot or each individual strain. I would implore that the board make this decision based on scale rather than across the board. I am a Tier 1 Outdoor Cultivator and the decision to go back to testing per strain is a financial deterrent from growing variety. It is the most expensive out of all the testing we need to have done. As it is, we are already limited to who we can sell our flower to and growing one strain will further limit our ability to sell our one harvest of the year. I can't speak for everyone, but my cannabis plants are all grown in the same location (under 1,000 square feet) and are all treated the same, no matter what variety they are. Testing every strain for pesticides is unnecessarily redundant and cost prohibitive for small growers. I have more to add, but it exceeds the character limit allowed.
Myra Adams	myra.r.adams@gmail.com	802-474-2692	Vermont legalized medical marijuana use already almost 20 years ago. Yet there is not much known about the interplay with the workplace. The state law should show more clarity about employing medical marijuana patients. Can they hold a job? Or should they receive disability payments? There is no clear guidance either for employers or for patients. And I think it should have been studied and developed in those two decades.
Ivo Skoric	ivo@balkansnet.org	6462752140	Rule 2: I am concerned by the proposed employee sample provisions. It's reasonable to expect that part of the CCB's task is to protect cannabis industry employees from development of cannabis use disorder and these provisions do not seem to square with that goal. Please consider revising with employee health in mind. Please also indicate which referral services for substance use disorders will be available to employees. Please indicate whether business owners will be required to offer these referral services or whether it is suggested (I'd recommend requiring as part of new employee onboarding). Consider which cannabis quit services will be available to employees and please consider speaking with VDH about the need for cannabis-specific quit services for cannabis industry employees.
Marielle Matthews	mmatthews@winooskiprevention.org		Hello, when reading through proposed changes to Rule 2, I noticed a small typo in the new narrative warning. "National Poison Control Center" - "Poison" is spelled as "Position" It's not a serious issue but I thought it best to bring it to your attention!
Harry Papali	Hpapali@hotmail.com	802-777-7237	Regarding proposed rule 2.1.3(r) about tinctures: 1) tinctures - in the both the herbal and pharmaceutical worlds - are defined as a drug or herb dissolved in alcohol. Alcohol must be the solvent for an extract to be considered a tincture, otherwise the solution is simply an extract. Using the word tincture to refer oil-based extracts is misleading, and makes this industry look un-informed. This misnomer is certainly not unique to the CCB - I've seen too many manufacturers conflate the two terms. But for so many people who are turning to the recreational cannabis market to fill the gaps in the medical market, it is a very important distinction. For example, people with a history of alcohol abuse likely know to steer clear of tinctures, because they contain alcohol. But, most "tinctures" in the VT market are oil-based and are not actually tinctures. This would be a great opportunity to further define product terms, and in turn educate and guide licensees. Regarding proposed rule 2.1.3(r) about tinctures: 2) Regarding the 500mg limit on "tinctures" - if VT is truly committed to reducing waste in the form of cannabis packaging, putting a cap on "tinctures" could effectively double the amount of packaging needed. It's inefficient and simply makes the product more expensive for the consumer, because they will have to buy multiple packages of the same product. This could become cost-prohibitive and effectively encourage people to turn back to black market sources for extracts. These "tinctures"/extracts are generally higher concentration to reach the consumers whose needs are not necessarily "recreational" but more for treatment of anxiety, pain, insomnia, etc but don't want to rely on the MSOs in the medical market to supply their relief.
Carly Monahan			Putting a cap on these extracts could hurt the people who need them most, while simultaneously increasing the amount packaging needed. I have called your office many times trying to get my renewal paperwork. My card expired on April 9 and no one will return my calls. What do I do?
Kerry Lansford			Hello, I would like to request that Outdoor Licensed Cultivators, be allowed to use artificial lighting past May 1 to keep plants in a vegetative state especially to address lighting challenges posed by neighboring trees, and to address possible rotation of new crops. (2.1.3.M) Thank you!
John Stern			

RE: Non-Ingestible, Non-Consummable, Non-intoxicating THC Product

The CCB's documentation regarding a Manufacturers License:

<https://ccb.vermont.gov/sites/ccb/files/2022-11/CannabisLicense101.pdf>

and our legislature's law on the same subject (7 VSA & 906):

<https://legislature.vermont.gov/statutes/section/07/033/00906>

are both vague as regards the above product description.

Does the Board intend to address this?

Robert Hoover

Thank you in advance for your consideration.

It has been a continuously frustrating time with product registration. Time management is of the utmost importance when it comes to finished cannabis products and getting fresh, terpene rich, product to the customer. Quality and freshness are diminished the longer the products wait on the shelves. It hurts the bottom line and can diminish quality by having such long registration times. It takes over a month to get a single product registered to be sold, sometimes longer. Product has been sitting longer than it should and the product can lose moisture even with proper moisture control and good packaging. Terpenes are one of the more beneficial components to cannabis flower and are the most volatile compounds found in cannabis. The longer these products sit on the shelves the more terpenes are lost. I agree products should be registered before sale, but the turnaround time needs to be faster. All of us are being negatively impacted by long registration times. We have done all the proper things required by the CCB but the longest and most frustrating part is waiting on the CCB to approve the registration. If the testing labs in VT can turnaround lab tests in 1-2 weeks the CCB should be able to do better than that for registering products. There were a lot of mistakes with previously registered products that got "lost" by the CCB. This is unprofessional and asking everyone to re-submit registration without a refund is unethical. It appears the CCB is adding another way to get more money from everyone by making them pay \$50 to register a product that sits in limbo for months on end. The best plan of action is to do away with the registration fees and speed up the registration approval process.

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Please make product registration and inventory submission more user friendly, it would save us all a lot of time if we could submit more than one product at a time as well as enter more than 10 products at a time for inventory.

I just want to point out to the control board that it seems with the bulk flower guidance that products will be on the floor that are never seen by the control board as they do not require registration. yet all other products require registration if they are packaged. It states that cultivators do not need to register flower sold as bulk. The retailer does one bulk flower registration and all bulk flower can be sold regardless of cultivator, cultivar or process lot. So if an unregistered flower is sold to a retailer as bulk and the retailer sells it as bulk there is no registration for the CCB to reference. This puts extra work on retailers to ensure compliance. It also seems that the product registration is mostly focused on packaging and not on the actual cannabis products. I see this as a potential area for errors to happen as retailers are the ones who are checking the products safety and compliance and the CCB does not see all products being sold to ensure public safety.

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Where is all the CBN, CBG, CBD and other cannabinoids other than THC coming from? We are all required to track THC but there does not seem to be any regulation control on the other cannabinoids people are adding to their products. There can be benefits to these cannabinoids that can give customers a different experience but if manufacturers are not required to submit test results for these added cannabinoids it opens up a door for potential manipulation and contaminated products. These added cannabinoids are most likely coming from out of state and can be purchased online. This gives the consumer a false conception of the product as everyone is under the assumption that all cannabis products sold in VT are 100% from VT and not out of state. It would make sense for public health and safety to have an end product testing protocol for all cannabinoids and not just THC as well as keeping it in VT. If cannabinoids are coming from out of state The CCB should require a full panel of testing on manufactured final products, and I would love to see this written into the regulations.

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As the rules currently stand, companies are able to get a full panel of COAs for their distillate and rely on their formulation and calculations for final products.

This is a problem for a few of reasons:

- 1) There could be a large amount of variation in potency from batch to batch.
- 2) I have seen vape carts that have terpenes added and all have the same potency on the label. The terpenes, which are not included in the distillate COA, affect the potency and have the potential to introduce contaminants into the product if they are untested.
- 3) I have seen many companies utilizing a mixture of extracts from different sources to create products with THC, CBD, CBN, CBG, etc. If only the distillate COA for THC is required these other

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extracts are making it into the product without being tested for pesticides, heavy metals, or residual solvents. We are hoping to see Continuing Education and Tourism updates in the upcoming rules. We hope this will include changes regarding the viewing of licensed establishments by the public. The ability for licensed retailers to use Age Verification and dispensary access to be able to have viewing areas and interactive education exemplifying our processes. We have a long hallway from Retail down to cultivation that we would like to use as an educational tool and a timeline of sorts, to help the community understand the process from seed to sale and be informed consumers. This promotes best practices and transparency in processes. I see this as a potential tourism experience and can provide a firm understanding from seed to sale that can benefit the industry while following all rules and guidance provided by the control board. I believe this should only be allowed in retail establishments due to safety of staff, the public, ensuring safe regulated product, age verification and

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