Industrial Hemp is Legal. Now What?
The Division’s long standing position regarding banking services and any industry is that the decision to conduct business with any particular customer, regardless of the industry, is the responsibility of the bank’s board of directors. The Division neither promotes nor discourages a bank from conducting business with an individual customer or an industry. The Division expects that each bank takes a risk-based approach in assessing its customer relationships. The Division expects that based upon the risk profile, bank management will implement controls that manage the risks of the customer. The cannabis industry is one of several industries that have unique challenges or risk profiles. The Division expects that management and the board will thoroughly review and discuss the associated risks with a particular industry or customer prior to making a decision regarding providing banking services.
Industrial hemp is an agricultural crop.

The Colorado Department of Agriculture (CDA) regulates industrial hemp cultivation. Industrial hemp is regulated separately from marijuana. The Division of Revenue regulates marijuana.

- Registration is voluntary.
- A non-registered site is not legal regardless of THC level in the cannabis plant.
- Registrations are issued throughout the state of Colorado, for any size indoor or outdoor grow area.
- 52 of 64 counties have at least one Registered Land Area (as of 12/2018).
- A list of active industrial hemp registrants by county is available on the CDA web site under “Active Registrants By County”. Only the business address is provided. Grow sites are regarded as confidential business information.
WHAT IS INDUSTRIAL HEMP?
Industrial hemp means a plant of the genus Cannabis and any part of the plant, whether growing or not, containing a delta-9 tetrahydrocannabinol (THC) concentration of no more than three-tenths of one percent (0.3%) on a dry weight basis.

The Colorado Department of Agriculture's Industrial Hemp Program regulates only the cultivation of industrial hemp. The Department also administers a certified seed program.

SALE AND DISTRIBUTION OF INDUSTRIAL HEMP:
The Colorado Department of Agriculture’s Industrial Hemp Program’s regulatory role is limited to the cultivation (growing) of industrial hemp only. The CDA Industrial Hemp Program does not regulate the sale or distribution of industrial hemp.

The Colorado Department of Public Health & Environment (“CDPHE”), pursuant to CRS 35-61-108, permits registered persons in the State of Colorado to carry out the processing, sale, and distribution of industrial hemp-based products.
CAN I GROW HEMP WITHOUT A LICENSE? IS THERE A MINIMUM AMOUNT ALLOWED WITHOUT REGISTERING?
There is no minimum allowable without a license. Any amount of hemp being grown, regardless of the size of the grow operation, requires a registration. Even though the 2018 Farm Bill removed Hemp from the Controlled Substance Act, it did not de-regulate it. It empowers States to implement a permanent hemp growing program without the grey area of it being legal at the State level under the 2014 Farm Bill Pilot Program, but yet still considered a "Controlled Substance" according to Federal laws. The 2018 Farm Bill mandates States to maintain information on lands where Hemp is grown.

HOW DO I REGISTER WITH THE PROGRAM? HOW MUCH DOES IT COST?
To register with the program, Please review the CDA website. You will need to look over the Program Rules, State Laws, and frequently asked questions.

IS THERE A DEADLINE TO APPLY?
No, we issue registrations year round. There are no deadlines or timelines for submittal. It is recommended that you submit your application at least 30-45 days prior to when you wish to plant, as there is approximately a 30 day processing window. If there are corrections or more information is required then it may delay past 30 days. Once submitted, the information given in the application will need to be verified, sent for approval, and then a registration will be generated and issued. A registration must be issued prior to planting. Submittal of an application does not assume approval or issuance of a registration.
• **DO YOU HAVE TO BE A COLORADO RESIDENT OR HAVE A COLORADO ADDRESS TO BECOME A REGISTERED INDUSTRIAL HEMP GROWER?**
  You do not need to be a Colorado Resident or have a Colorado address to register your land area. A registration will be issued for a specific land area on which you intend to grow Industrial Hemp. The Registered Land Area must be within the State of Colorado. But, the Sole Proprietor or Business that holds the registration(s) does not need to be located in Colorado. However, the business does need to be registered with the Colorado Secretary of State.

• **TESTING PROCEDURES**
  The CDA takes the top two inches of female plants and decarboxylates the lab sample for total %THC concentration (of THC and THCa) as defined in statute. While it is not required, it is highly recommended as good practice that you perform voluntary testing to monitor your own crops. Registrants that participate in voluntary private testing are not exempt from being selected for sampling by the CDA. The CDA can test up to 100% of industrial hemp registrations.

• **SAMPLING AND INSPECTION**
  At this time, we use a risk and random selection procedure to select a percentage of registrants to be inspected and sampled. Not ALL registrants are sampled. Around June/July/August, you will receive notification if you are selected for routine fall harvest sampling and or inspection. Around Dec/January/February you will receive notification if you are selected for a routine indoor grow/Winter inspection. Keep in mind: We can inspect and sample at any time, even without notice. All “ACTIVE” registrations are subject to inspection and sampling.
INDUSTRIAL HEMP REGISTRATIONS EXPIRE 365 DAYS AFTER ISSUANCE.

REGISTRATIONS DO NOT RENEW.

SHIPPING: WHAT CAN THE CDA TELL ME ABOUT SHIPPING INDUSTRIAL HEMP?

The 2018 Farm Bill reads: Section 10114 (p.435) Nothing in the act prohibits the interstate commerce of hemp, nor can State or Tribes prohibit the transportation of hemp or hemp products through their territory.

STAY IN COMPLIANCE.

By registering as an Industrial Hemp registrant with the Colorado Department of Agriculture, you have agreed to comply with the requirements of the program. Staying in compliance affords registrants protections and maintains the credibility and integrity of the Industrial Hemp Program which benefits all registrants. One of the most important ways to stay in compliance is to follow the reporting requirements in a timely manner as outlined below.

TIMELY SUBMISSION OF REPORTS

There are 3 separate reports, required by Rule, which must be submitted during the registration period.

1) Pre-Planting Report (Appendix B included with application)
2) A Planting Report is required within 10 days of planting
3) A Harvest Report is required at least 30 days PRIOR to Harvest. There is a +/- 5 day window allowed for harvesting from your documented “Harvest Date”. Changes must be reported on an amended harvest report.
A hemp product is a finished product containing hemp that: is a cosmetic, food, food additive, or herb; for human use or consumption; contains any part of the hemp plant, including naturally occurring cannabinoids, compounds, concentrates, extracts, isolates, resins, or derivatives; and contains a delta-9 tetrahydrocannabinol concentration of no more than three-tenths of one percent.

The Colorado Department of Public Health and Environment (CDPHE) has regulatory authority over this commodity. Registration with CDPHE is a legal requirement.

The processor, extractor, manufacturer, etc. may also need to obtain a license from the Colorado Department of Agriculture (CDA) for a Farm Products Dealer license or Commodity Handlers license.

Who needs to register or obtain a license/registration with CDPHE?

All hemp product manufacturers, extractors, processors and storage facilities who manufacture, store, wholesale and process hemp products intended for human use and consumption must register with CDPHE. Additional requirements beyond those covered by this license/registration may need to be satisfied to ensure legal operation. Be sure to check with your local building, fire and zoning departments.
Is there a list of approved hemp sources in Colorado?
Yes. A list of approved sources can be found on our website (updated monthly). Once a facility registers with CDPHE, the facility will appear on the list at: https://www.colorado.gov/pacific/cdphe/food-manufacturing-and-storage.

What are the labeling requirements for my hemp products?
State and federal labeling laws apply to industrial hemp products. These laws and regulations require that all food labels contain:

1. An identity statement, which indicates what the product is (not a brand name).
2. A net weight statement.
3. A list of all ingredients.
4. The company name with an address.

Additionally, our Industrial Hemp guidance requires that the label also:
1. Clearly identifies hemp as an ingredient.
2. Clearly identifies CBD and the amount of CBD if added as an isolate.
3. Includes the statement “FDA has not evaluated this product for safety or efficacy.”
4. Does not contain any health or benefit claims.
What tests are legally required for hemp products?

The language under HB18-1295 states that all finished hemp products must conform to a THC concentration of 0.3% or below to enter the consumer market. Therefore, it is the responsibility of the licensee to ensure their products contain 0.3% THC or less.

No required testing other than potency exists at this time, but Colorado hemp cannabinoid-based product manufacturers, extractors and/or processors are encouraged to test for heavy metals, residual solvents, pesticides, microbial and shelf stability.

Where can I get my hemp tested?

Currently, two possible options exist in the state: private testing facilities and state certified marijuana testing labs. Private facilities require their own information, while state certified labs mandate utilizing the METRC system to properly track the products during the testing phase. Additional testing (i.e. Heavy Metals, Pesticides, etc.) can also be conducted at these laboratories.
What happens if the test results are above the 0.3% THC?

In Colorado, anything above 0.3% THC is, by definition, marijuana. Food products that test above this level will be subject to embargo and destruction if the product cannot be re-worked to be within allowable levels of THC. Any product with adulterated ingredients cannot be sold or distributed on the consumer market and would be subject to the same CDPHE processes as those products with elevated THC. Products manufactured, sold and/or distributed that contain THC levels above 0.3% will face immediate recall, and could be subject to multiple enforcement actions by CDPHE, law enforcement and other state agencies.

Can I sell or transfer my processed hemp extract/concentrate over 0.3% THC?

No. A product containing above 0.3% THC is considered marijuana. Raw unprocessed hemp flower containing less than 0.3% THC when initially processed may contain a higher concentration of THC (over 0.3%). These extracts are considered unfinished products and cannot be sold to consumers. All unfinished products, regardless of the type of processing used, must be secondarily processed to lower the THC concentration to 0.3% or below before it can go onto the consumer market and be considered a legal hemp product.
The CHAMP Process in Two Phases

**Phase 1: The State Hemp Plan to USDA**
Address the specific requirements for approving a state plan as defined in the 2018 Farm Bill and USDA rulemaking Submission to the USDA in Fall 2019.

**Phase 2: The comprehensive “CHAMP Report”**
Develop a governing blueprint for the full supply chain. Identify:
Legislation and rule structure
Department resources
Industry guidelines and support

**Stakeholder-Based Discussion**
Seek consensus on the important issues and a regulatory framework for each step of the hemp supply chain
Identify gaps and questions for future consideration and implementation by state agencies and industry.
Division of Banking

The Hemp Supply Chain
QUESTIONS?