

Vermont Hemp Production Plan approved by USDA

The Vermont Agency of Agriculture, Food and Markets' Hemp Program received approval from the Agricultural Marketing Service of the U. S. Department of Agriculture (USDA) of the [Vermont Hemp Production plan](#). The approved plan supports the Vermont Hemp Rules and governs registration, production, and compliance for hemp cultivation beginning in 2022. All grower registrants should consider these programmatic changes required by the 2018 Farm Bill, USDA's final rule, and as reflected in Vermont Hemp Production plan, and how it may impact their operations. The following summary of changes to the Vermont Hemp Program *applies to all registrants of the Vermont Hemp Program that grow at any scale, including those growing under a personal use registration and those producing hemp for research purposes.*

THC Compliance is 0.3% and includes both THC and THC-A

- ◆ The acceptable hemp tetrahydrocannabinol (THC) level is when, after the application of the measurement of uncertainty, the range of total delta-9-THC concentration includes 0.3 percent or less, as measured on a dry weight basis. Total delta-9-THC includes the potential conversion of tetrahydrocannabinolic acid into THC.
- ◆ Cannabis plants exceeding the acceptable hemp THC level constitute marijuana, a schedule I controlled substance under the federal Controlled Substances Act and registrants/licensees must either ensure the disposal of such cannabis plants on site at the farm or hemp production facility or use a DEA-registered reverse distributor or law enforcement to dispose of non-compliant plants.
- ◆ A negligent violation occurs when a cannabis plant's total delta-9- THC concentration exceeds 1.0%.
- ◆ Registrants may be able to remediate and retest a harvest lot that exceeds the acceptable hemp THC level by
 - ◇ Removing flowers and leaves and disposing of them appropriately, and retaining only stalk; or
 - ◇ Chipping the entire plant into biomass for extraction or other commercial purposes.

New Registration and Reporting Requirements

- ◆ A registration will not be issued unless a criminal history report(s), submitted within 60 days of an application submission, confirms that the key participant listed on the registration has not been convicted of a felony relating to a controlled substance within the past 10 years. If the applicant registrant was lawfully cultivating hemp under the 2014 Farm Bill and registered on or before December 20, 2018, and has felony conviction relating to a controlled substance that also occurred before that date, they may be a registrant of the program.
- ◆ All registrants/licensees must report hemp crop acreage to the Farm Service Agency within 30 days of planting hemp and provide the location where hemp is being produced, acreage or square footage of all areas dedicated to hemp production, and the issued registration/license number.

Significant changes to sampling practices include the requirement to use “sampling agents” when taking samples for potency testing.

- ◆ Registered hemp producers are no longer able to collect samples of their own crops. Sampling must be performed by a “sampling agent”. Vermont will use USDA’s sampling agent training to establish who is eligible to be a sampling agent.
 - ◇ Hemp producers (registrants of the Vermont Hemp Program), employees of individuals or businesses registered to grow or process hemp, individuals residing in the same household as a hemp producer registrant, or individuals related to Vermont hemp producers are not eligible to become sampling agents.
- ◆ Sampling agents must collect floral material from the flowering tops of the plant by cutting the top five to eight inches from the “main stem” (that includes the leaves and flowers), “terminal flower” (that occurs at the end of a stem), or “central cola” (cut stem that could develop into a flower) of the top of the plant. Depending on the size of harvest lot, multiple cuttings will comprise the representative sample.
- ◆ Sampling must occur no more than 30 days prior to harvest.
- ◆ If the registrant/licensee fails to complete a harvest within 30 days of a sample collection, a second pre-harvest sample of the remainder of the lot shall be required to be submitted for potency testing.
- ◆ Sampling agents must have complete and unrestricted access to all *hemp and other cannabis plants, (whether growing or harvested)*, all hemp production and storage areas, all land, buildings, and other structures used for the cultivation, handling, *and storage of all hemp and other cannabis plants*, and all locations listed in the producer license.

Laboratories that conduct pre-harvest potency testing must report their results to USDA, using the HeMP online document management system, <https://www.ams.usda.gov/rules-regulations/hemp/hemp-emanagement-platform>. Effective on January 1, 2023, all registrants/licensees may only use DEA-registered laboratories to conduct THC potency testing.



Please see the Code of Federal Regulation review the requirements of the Domestic Hemp Production Program, <https://ecfr.federalregister.gov/current/title-7/subtitle-B/chapter-IX/part-990>. For more information on hemp regulation in Vermont, please contact Stephanie Smith, Stephanie.smith@vermont.gov or Michael DiTomaso, Michael.DiTomaso@vermont.gov.

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