



Agency of Agriculture, Food & Markets

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December 3, 2021

Sent via email to farbill.hemp@usda.gov

William Richmond, Chief
U.S. Domestic Hemp Production Program
Specialty Crops Program Agriculture Marketing Service
United States Department of Agriculture
1400 Independence Avenue SW
Washington, D.C. 20250

Re: Vermont Hemp Production Plan

Dear Mr. Richmond,

The Vermont Agency of Agriculture, Food & Markets (VAAFAM) respectfully submits the Vermont Hemp Production Plan for review pursuant to Section 297B(a)2(A)(i-vii) of the Agriculture Improvement Act of 2018, and more formally outlined in the Hemp Final Rule (7 CFR Part 990: Establishment of a Domestic Hemp Production Program), and the regulations authorized by 6 V.S.A chapter 34.

Attached, please find our proposed Vermont Hemp Production Plan. We consulted with the Governor's and Attorney General's Offices before submitting this Plan. Once approved, the Hemp Program at VAAFAM will administer the State's plan. If Congress extends the 2014 pilot program, we may respectfully withdraw our State Plan and continue operating under the pilot program.

Thank you for your review and consideration.

A handwritten signature in cursive script, appearing to read "A. B. Tebbetts".

Anson B. Tebbetts, Secretary

Vermont Agency of Agriculture, Food and Markets



State of Vermont Hemp Production Plan

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As designated by the Secretary of the Vermont Agency of Agriculture, Food and Markets (Agency), the Administrator of Cannabis Quality Control and Policy will be responsible for the oversight, administration, and daily operation of Vermont’s Hemp Program. The Agency will oversee its State plan in compliance with Federal and State law, and the following information will be effective upon USDA’s approval of Vermont’s Hemp Production Plan.¹

The Agency will use the following USDA reports and State of Vermont requirements and forms to collect, document, and report information to USDA under the Vermont Hemp Program, and to support administration of the plan:

- Vermont Hemp Rules
- Vermont Hemp Registration and Compliance Portal
- Pre-harvest Sampling Protocol
- Pre-harvest Sampling Form
- Post-Harvest Sampling Protocol
- Post-Harvest Sampling Protocol Form
- State Hemp Producer Report
- State Hemp Disposal Report
- State Hemp Annual Report

¹ This Plan requires hemp producers to comply with applicable federal and State law. It outlines how the State of Vermont will operate its Hemp program, but it does not alter or override federal or State law—which are more detailed than this summary State plan and govern the program and its implementation. This Plan is also based on existing federal and State laws which may change. If a change in federal or State law alters the terms of this Plan and/or repeals an existing requirement, the new law(s) will control and Vermont reserves the right to notify registrants and others of any related modifications to this Plan,

I. Introduction

The Agricultural Improvement Act of 2018 (the “Act”) permits States to be the primary regulatory authority for hemp production provided that the United States Department of Agriculture (USDA) approves the “State plan.” To assume regulatory authority, Vermont must submit its State plan outlining Vermont’s hemp production regulation to USDA.

In accordance with 7 U.S.C. § 1639p, the Agency’s State plan includes the following requirements:

- (i) A practice to maintain relevant information regarding land on which hemp is produced in Vermont, including a legal description of the land, for a period of not less than three calendar years;
- (ii) A procedure for testing, using post-decarboxylation or other similarly reliable methods, delta-9 tetrahydrocannabinol concentration levels of hemp produced in Vermont;
- (iii) A procedure for the effective disposal of plants (whether growing or not) and/or derived products that are produced in violation of the Act;
- (iv) A procedure to comply with the enforcement requirements enumerated in the Act;
- (v) A procedure for conducting annual inspections of, at minimum, a random sample of hemp producers to verify that hemp is produced in compliance with the Act;
- (vi) A procedure for submitting the information the Act requires to USDA not more than 30 days after its receipt; and
- (vii) A certification that Vermont has the resources and personnel to carry out the practices and procedures described above.

II. Registration and Land Used for Production

1. The Agency will collect and maintain relevant grower registrant information by requiring each applicant to complete a Vermont Hemp Program registration application including the name, address, phone number and email (if available) of the person applying for or renewing registration. If the registrant is a business entity, the Agency will collect and maintain the name of the business, its address, the full name of its primary registrant and that individual's business, phone number and email address, as well as the business entity's EIN when applicable.
2. The Agency will collect and maintain relevant information on land used for hemp production by requiring each grower to provide the location of all land where hemp will be grown and its acreage when registering or renewing. This registration process includes collecting geospatial data for the location of vehicular access to outdoor or indoor cultivation areas, the location of indoor cultivation, storage, or drying areas, and mapped boundaries of all fields.
3. The Agency will require registration or renewal through an online registration process, or through an electronic or paper form submitted by email or physically delivered to the Agency. Registration is required prior to taking possession of viable hemp seed, clones, and/or starts.
4. In its State Hemp Producer Reports, the Agency will provide USDA with the contact information and status of each grower registered under the Vermont Hemp Production Plan. The Agency will submit this monthly report to USDA by the first business day of each month.² For each registered grower included in a previous report whose reported information changed, the report shall include the previously reported information and the new information.
 - a. For the purposes of reporting to USDA, the Agency will assign registration numbers using the Vermont code (50) as indicated in the American National Standards Institute (ANSI) Codes in the following convention: 50_[year of registration]_0001, 50__[year of registration]_0002, and continuing in sequential numbers.
5. The Agency will identify registrants as follows:
 - a. Approved-a registration holder in good standing with the Agency's Hemp Program;
 - b. Revoked-a registration holder that is no longer operating, changed the scope of registered activities, or violated the Vermont Hemp Rules and is no longer registered as a hemp grower. Among other violations that may cause a loss of registration, revocation will occur whenever a registrant commits a total of any three of the following negligent violations in a 5-year period:
 - i. Failing to provide a legal description of land on which a producer produces hemp;

² "Business days" include days when the State is generally open for business and exclude weekends and State holidays.

- ii. Failing to properly obtain authorization from the Agency to participate in the Vermont Hemp Program; and/or
 - iii. Producing Cannabis sativa L. that exceeds the acceptable level of delta-9 THC in violation of Federal and/or State law and this plan.
 - c. For purposes of evaluating the above “three strikes” requirement, no producer will be found responsible for more than one negligent violation per growing season.
- 6. In addition, the Agency will not register and/or will revoke an applicant’s or producer’s registration as follows:
 - a. Persons with a State or federal felony conviction related to a controlled substance shall be ineligible to register under the Plan for ten years from the date of conviction (unless a person fits within the exemption for growers who participated under the pilot project);
 - b. Persons who make a false statement by materially falsifying any information in an application for registration shall be ineligible to participate in the program.; and/or
 - c. Persons who intentionally, willfully, and/or knowingly violate any part of this plan, federal law, or 6 V.S.A. Chapter 34 of Vermont law or the Vermont Hemp Rules may also have their registration revoked or may be ineligible to participate.
- 7. The Agency will maintain all grower registration records for a minimum of three years.
- 8. The Agency will identify prospective individual producers and a business or research entity’s registrant as the “key participant”. A registrant is the individual listed as the registrant on the application and is the individual to whom the registration is issued.
- 9. The primary registrant for a grower’s registration must certify to the State of Vermont that they do not have a Federal or State felony conviction for controlled substance offenses within the last ten years.³ Primary registrants who were convicted of a felony controlled substance offense shall be ineligible to produce hemp for 10 years following the date of conviction. To certify the individual’s record, the prospective primary registrant must obtain a Federal Bureau of Investigation Criminal History Report and mail it to the Vermont Hemp Program, VAAF, 116 State Street, Montpelier, VT 05620. The criminal history report shall be provided as a hard copy and must be in its original sealed envelope to demonstrate that no tampering has occurred. Applications will not be complete until an appropriate criminal history report for the primary registrant is received. All criminal history reports must be current and must be generated within sixty (60) days of submission to the Agency.

³ “Controlled substances” are commonly referred to as “drugs.”

10. A primary registrant with a felony conviction for drug-related offenses is generally ineligible to grow hemp for 10 years following conviction. An exception exists for those who lawfully grew hemp under the pilot program authorized by 7 U.S.C. § 5940 before December 20, 2018, when their conviction also occurred prior to that date. Eligible producers who are exempt from the 10-year felony ban may register with the Agency.
11. The following citations also refer to Vermont’s requirements for registered growers to share information with the Vermont Hemp Program:

6 V.S.A. § 564(b)(1). A person shall register annually with the Secretary as part of the State Hemp Program in order to grow, process, or test hemp or hemp products in the State. A person shall apply for registration or renewal of a registration on a form provided by the Secretary. The application shall be accompanied by the fee required under section 570 of this title. The application or renewal form shall include:

- (A) the name and address of the person applying for or renewing a registration...
- (C) for a person applying as a grower:
 - (i) the location and acreage of all parcels where hemp will be grown;
 - (ii) a statement that the seeds obtained for planting are of a type and variety that do not exceed the federally defined tetrahydrocannabinol concentration level of hemp; and...
- (F) any additional information that the Secretary may require by rule.

Vermont Hemp Rules Sections 4.1, 4.2, 5.2, and 5.6.

III. Sampling and Testing for Total Delta-9- Tetrahydrocannabinol (THC) Concentration

1. General sampling and testing requirements:
 - a. The following policies describing performance-based sampling, required sampling, and/or testing by certified third-party samplers and laboratories are separate and distinct from the Vermont Hemp Program's additional planned or random records inspections, sampling, and/or testing of grower registrants' hemp crops.
 - b. Each year, the Vermont Hemp Program will conduct planned or random inspections of approximately 20% of its grower registrants.
 - c. All registered growers not covered by a performance-based sampling protocol must test their crops annually.
 - d. In addition to the performance-based sampling protocols and the Agency's planned or random inspections, the Agency will require that all registrants maintain records of their seeds, clones, and/or starts purchases, including records that provide the cultivar name, name and address of seller or distributor, and a certificate of analysis demonstrating the cultivar's compliance with total delta-9-THC concentrations.
2. The Agency establishes the following limited performance-based sampling protocols to ensure, at a confidence level of 95 percent, that no more than one percent of the cannabis plants grown under Vermont's Hemp Program test above the acceptable THC level for hemp.
 - a. A research institution is an accredited institution of higher learning conducting hemp research in Vermont or a hemp grower registrant affiliated with an accredited institution of higher learning that is conducting research on crops grown pursuant to the registration. Hemp cultivation conducted by research institutions may not be subject to mandatory annual pre-harvest sampling and testing of hemp crops when:
 - i. Hemp crops do not enter commerce, and
 - ii. The research institution uses permitted disposal methods and the disposal of all non-compliant crops is documented and reported to the Vermont Hemp Program as described in Section IV of this Plan.
 - iii. The research institution and/or affiliated grower cannot introduce any hemp grown pursuant to this performance-based protocol into commerce. Any hemp grown for commerce is subject to the standard sampling and testing procedures enumerated below in ¶ 3 of this section.
 - b. Nursery stock is an immature *Cannabis sativa* L. plant that is not in the flowering growth stage and is intended for planting, including but not limited to clones, starts, and all viable plant parts that may be sold for propagation. Nursery stock may not be subject to pre-harvest sampling and testing when:

- i. A producer registrant uses permitted disposal methods and disposal is documented as required by the State plan in Section IV for unsold nursery stock before July 15 of each calendar year, or
 - ii. It is maintained in a vegetative state, and not brought to flower.
 - iii. If brought to flowering stage, this nursery stock protocol no longer applies and plants are subject to the pre-harvest sampling requirements described in ¶ 3 of this section below.
 - c. Hemp greens are hemp leaves harvested from immature plants not in the flowering growth stage, grown for human consumption. Hemp greens are germinated from seed, are no more than 10" tall before harvest, and may not be subject to mandatory preharvest sampling when a Hemp Program official annually inspects the facility where the hemp greens are grown. Additionally, producer registrants shall maintain the following records:
 - i. documentation of planting and harvest dates.
 - d. Hemp crops produced exclusively for grain and fiber that Hemp Program officials comprehensively inspect to confirm their use during the season may not be subject to mandatory preharvest sampling. Fiber and grain crops in 2021 were estimated to represent less than 10 total acres of cultivation. Crops grown for these purposes must be registered for the applicable use and producer registrants shall maintain the following records:
 - i. documentation of planting date, and
 - ii. photographic documentation of crops four-six weeks after seeding the registered field.
 - iii. The producer registrant is also responsible for scheduling Hemp Program staff's seasonal inspection.
- 3. Pre-harvest sampling for all other grower registrants. The Agency will require USDA trained and certified sampling agents to perform sampling on pre-harvest and remediated crops, in compliance with the Program's sampling procedures. Sampling agents must prove they completed the required training and the Program will maintain a list of certified sampling agents for use by registrant growers. For crops subject to pre-harvest sampling in accordance with Vermont Hemp Program requirements the following process applies:
 - a. A sampling agent shall collect a representative pre-harvest sample from each harvest lot to submit for total delta-9-THC concentration testing. Samples must represent a homogenous composition of each separate harvest lot. The sampling agent shall not comingle harvest lot samples.
 - b. During scheduled sample collection, the registrant grower or authorized representative shall be present at the cultivation area. Registrant growers shall not collect their own samples.

- c. Sampling agents will have complete and unrestricted access during business hours 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.
- d. Samples must be managed to avoid contamination from non-sampled material.
- e. Samples must be maintained pursuant to a chain of custody that tracks samples from the cultivation area to the certified laboratory.
- f. A sampling agent must complete the Pre-harvest Sampling form, which documents the date of sampling, the anticipated date of harvest, the cultivar and acreage of the harvest lot.
- g. A sampling agent must document the location of each harvest lot using geo spatial coordinates linked to the samples, and must record sample locations by mapping them on aerial images of the harvest lot. The Pre-harvest Sampling form must be signed and dated by the sampling agent and the registered producer or representative.
- h. The sampling agent must collect harvest lot samples when cannabis plants are in flowering stage, and not more than 30 days before harvest.
- i. All samples shall be sent to a Vermont-certified laboratory that is able to accurately identify whether a sample contains a total delta-9 tetrahydrocannabinol content concentration level that exceeds 0.3% using post-decarboxylation or other similarly reliable methods.
- j. The sampling agent will use the following method to collect samples from the cannabis plants:
 - i. The sampling agent should enter a designated harvest lot, strategically examine the area and establish an approach for navigating it and collect individual cuttings. This collection of cuttings represents the “sample” of the designated harvest lot.
 - ii. All samples must be collected 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 bud” (that occurs at the end of a stem), ”or “central cola” (cut stem that could develop into a bud) of the flowering top of the plant.
 - 1. The cutting from the plant shall not contain dead, diseased, pest infested, or injured plant material.
 - 2. Samples shall be placed in the sampling container in a cooler immediately following the sampling of each harvest lot.
 - iii. For harvest lots of less than one acre, including greenhouses, select a representative sample that includes a minimum of 1 plant, then take a cutting from the plant(s) forming the sample.
 - iv. For harvest lots between 1-10 acres, including greenhouses, take at least one cutting per acre.

- v. For harvest lots that exceed 10 acres, including greenhouses, sampling agents follow the chart provided in the Pre-Harvest sampling procedure.
 - vi. Sampling agents will walk in a “W” or zig zag pattern across the harvest lot, if possible, beginning on one side of the field and ending on the opposite side of the harvest lot. The sampling agent should take all reasonable steps to collect a sample that represents a homogeneous composition.
 - vii. Deviations from the described sampling pattern necessitated by harvest lot conditions shall be documented either in the Hemp Pre-Harvest Sampling Form or on an aerial view map.
 - viii. The sampling agent must take the required number of cuttings based on harvest lot size as described in the chart. The cuttings should be at random and equidistant from each other. Sampling agents should avoid taking samples from the edges of the cultivation area.
4. If a producer registrant fails to complete harvest within 30 days of sample collection, a second pre-harvest sample of the harvest lot must be collected and tested for total delta-9-THC concentration within 30 days of harvest.
 5. The Agency will require that no harvest occurs before samples are timely collected.
 6. The Agency will require testing to ensure that hemp does not exceed the acceptable hemp THC level. Hemp is *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 total delta-9 tetrahydrocannabinol concentration of not more than 0.3% percent on a dry weight basis.
 7. The Agency will require that all potency testing methods be validated and use post-decarboxylation or other similarly reliable methods, including but not limited to, gas or liquid chromatography with detection, and that hemp shall not exceed 0.3% on a dry weight basis.
 8. Total delta-9-THC content (or total theoretical THC) will be determined and reported and is the amount of possible delta-9 tetrahydrocannabinol in a hemp crop if all of the tetrahydrocannabinolic acid (THCA) is converted into delta-9-THC. The calculated amount is determined by adding the concentration of delta-9-THC to the amount of THCA after it is multiplied by 0.877 on a dry weight basis and reported to two significant figures. The mathematical equation follows: *Total theoretical THC = ([delta 9 THC] + ([THCA] * 0.877))*.
 9. The Agency will require testing laboratories to report the THC level and the estimated measurement of uncertainty (MU) on certificates of analysis. The acceptable hemp THC level will only be satisfied when the application of the MU to the reported total delta-9 THC concentration level on a dry weight basis produces a distribution or range that includes 0.3% or less.
 10. The following citations also refer to the Agency’s ability to have complete and unrestricted access during reasonable business hours to all cannabis plants subject to the Hemp program and to all land, buildings, and other areas used for cultivation and/or handling:
6 V.S.A. § 564 (e). A person registered with the Secretary under this section to grow, process, or test hemp crops or hemp products shall allow the Secretary to inspect hemp crops, processing

sites, or laboratories registered under the State Hemp Program. The Secretary shall retain tests and inspection information collected under this section for the purposes of research of the growth and cultivation of industrial hemp; and Vermont Hemp Rules Sections 13.1 and 13.2.

11. The following citations refer to requirements that registrants only handle compliant hemp: Vermont Hemp Rules Sections 3.24, 3.29, 5.2, 9.1(d), and 10.1.

12. The following citations refer to the requirements that registered growers not harvest any cannabis prior to sampling the crop, and that they are present during sampling: Vermont Hemp Rule Sections 5.5 and 6.8, the Vermont Pre-Harvest Sampling Protocol, and as recorded in the Hemp Pre-Harvest Sampling Form.

13. The following citations refer to testing requirements for acceptable levels of delta-9-THC concentration:

6 V.S.A. § 561 (b) Purpose. The intent of this chapter is to establish policy and procedures for growing, processing, testing, and marketing hemp and hemp products in Vermont that comply with federal law so that farmers and other businesses in the Vermont agricultural industry can take advantage of this market opportunity.

6 V.S.A. § 564 (a) The Secretary shall establish and administer a State Hemp Program to regulate the growing, processing, testing, and marketing of industrial hemp and hemp products in the State.

6 V.S.A. § 566 (a) The Secretary may adopt rules to provide for the implementation of this chapter and the Program authorized under this chapter, which may include rules to:
(1) require hemp to be tested during growth for tetrahydrocannabinol levels[.]

6 V.S.A. § 567. The Agency of Agriculture, Food and Markets shall establish a cannabis quality control program for the following purposes:
(1) to develop potency and contaminant testing protocols for hemp, hemp-infused products...;
(2) to verify cannabinoid label guarantees of hemp, hemp-infused products...;
(3) to test for pesticides, solvents, heavy metals, mycotoxins, and bacterial and fungal contaminants in hemp, hemp-infused products...; and
(4) to certify testing laboratories that can offer the services in subdivisions (2) and (3) of this subsection; and

Vermont Hemp Rules Sections 5.5, 6.8, 7.1, 7.2, 7.5 (a)-(b), and 7.6.

IV. Destruction or Disposal of Non-compliant Plants and Remediation

1. The Agency must be notified when a hemp crop test result exceeds the acceptable hemp THC level. Notice must be provided by both the certified laboratory conducting testing and the producer of the hemp crop.
2. When a producer produces cannabis that exceeds the acceptable hemp THC level, the Agency will report all occurrences of non-conforming plants or plant material and provide related disposal or remediation records to USDA in accordance with 7 C.F.R. §990.70.
3. When a harvest lot tests above the acceptable hemp THC level, the Vermont Hemp Program will first evaluate the producer's intent. Toward that end, and prior to remediation or disposal, the producer will submit a corrective action plan to the Program that includes:
 - a. Records of seed, clones or starts purchases that include the name of cultivar, date of purchase, seller, and certificate of analysis demonstrating the cultivar's compliance with the acceptable hemp THC level,
 - b. Map showing the location of cultivation,
 - c. Pre-harvest sampling form and results of potency tests, and
 - d. Proposed remediation and/or disposal plan. Remediation may include
 - i. Removing and destroying flower material and retaining stalk, stems and leaf materials and seeds, or
 - ii. Shredding the entire plant into biomass and taking post-harvest composite samples and re-testing for acceptable hemp THC level compliance.
 - e. The potency result from a remediated harvest lot will be the test result used to determine whether the final crop is compliant, and may be the result used to determine whether hemp is below the negligence threshold but non-compliant, or supports a potential negligent production violation.
4. The Agency must review and approve of the proposed method of remediation and/or destruction or disposal before disposition of any crop that exceeds the acceptable hemp THC level. Pre-approval applies to all related actions regardless of whether they are initiated by the producer registrant or are part of Agency action.
 - a. The Agency will allow onsite crop disposal including, but not limited to, composting, plowing under, disking, chopping, burning, or deep burial to render the crop non-retrievable.
5. An Agency representative will be onsite to witness and document disposal/destruction.

6. The Agency will document all disposals/destruction and report these actions to the USDA using the Disposal Report.
7. The following citations refer to the requirement that registered producers must destroy, dispose, or remediate crops:

6 V.S.A. §568 Test results; enforcement

If the Secretary or a dispensary registered under 18 V.S.A. chapter 86 tests a hemp crop and the hemp has a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis, the person registered with the Secretary as growing the hemp crop shall:

(3) arrange for the Secretary to destroy or order the destruction of the hemp crop; and

Vermont Hemp Rules Sections 7.5, 7.6, 7.7, 9.1 (b) iii., 9.3, and 14.1 (c).

V. Inspections

1. At minimum, the Agency shall conduct random annual inspections of approximately 20% of its registered outdoor and indoor cultivation areas to help ensure compliance with Hemp Program Rules.
 - a. An Agency representative will conduct record reviews.
 - b. An Agency representative will conduct inspections to include site visits to farms, fields, greenhouses, storage facilities, or other locations affiliated with the producer's hemp operation.
 - c. An Agency representative will assess whether required records and documents are accurate and complete.
 - d. The Agency representative will document findings.
 - e. If the Agency discovers a violation of the Vermont Hemp Production Plan, the Agency will investigate to determine whether it is a negligent violation and will take necessary steps to ensure compliance, including but not limited to providing compliance assistance, requesting a corrective action plan, issuing and enforcing a stop sale, revoking registration, and/or ordering crop destruction.
 - i. A corrective action plan will include a reasonable date by which the hemp producer shall correct the negligent violations; and
 - ii. Include a requirement that the hemp producer periodically report compliance updates to the Agency for a period of two (2) calendar years.
2. The following citations refer to inspection-related requirements:

6 V.S.A. §564 (e). A person registered with the Secretary under this section to grow, process, or test hemp crops or hemp products shall allow the Secretary to inspect hemp crops, processing sites, or laboratories registered under the State Hemp Program. The Secretary shall retain tests and inspection information collected under this section for the purposes of research of the growth and cultivation of industrial hemp.

6 V.S.A. §568(b). To enforce the provisions of this chapter, the Secretary, upon presenting appropriate credentials, may conduct one or more of the following:
(1) Enter upon any premises where hemp is grown or processed and inspect premises, machinery, equipment and facilities, any crop during any growth phase, or any hemp product or hemp-infused product during processing or storage. Inspection under this section may include the taking of samples, inspection of records, and inspection of equipment or vehicles used in the growing, processing, or transport of hemp crops, hemp products, or hemp-infused products.
(2) Inspect any retail location offering hemp products or hemp-infused products. Inspection under this section may include the taking of samples of such products; and

Vermont Hemp Rules Sections 5.6, 6.11, 13, and 14.

VI. Enforcement

1. The Agency will require a corrective action plan for negligent violations for:
 - a. failing to provide a legal description of the land where hemp is produced, or
 - b. failing to appropriately register with the Agency, or
 - c. producing a hemp crop that exceeds one percent total delta-9 THC (unless after applying the measurement of uncertainty to the reported total delta-9 THC content the distribution or range includes a crop that is below one percent).
2. Production of cannabis with a total delta-9 tetrahydrocannabinol concentration exceeding the acceptable hemp THC level. Hemp producers do not commit a negligent violation if they make reasonable efforts to grow hemp and the cannabis does not have a total delta-9 tetrahydrocannabinol concentration of more than 1.0 percent on a dry weight basis. In accordance with federal law, a hemp producer shall not be subject to criminal enforcement actions for a negligent violation.
3. The Agency will enforce its State plan by instituting corrective action plans for producers' negligent violations. In accordance with Section 14 of the Vermont Hemp Rule, the Agency will notify producers of negligent violations and require corrective action plans to cure the violations. Corrective action plans will be in effect for at least two years and include at least the following elements: 1) the date by which producers shall correct a negligent violation; 2) steps to correct each negligent violation; 3) a requirement that producers submit a description of the procedures used to demonstrate compliance to the Agency; and 4) a requirement that producers periodically provide reports demonstrating their ongoing compliance with the corrective action plan for at least two years, as necessary.
4. The Agency will conduct inspections to determine whether the required terms of a corrective action plan have been implemented.
5. A hemp producer that the Agency determines violated the State plan by committing a federally defined "negligent violation" three (3) times in a five-year period shall be ineligible to produce hemp for a period of five years beginning on the date of the third violation.
6. Negligence is the failure to exercise the level of care that a reasonably prudent person would exercise in complying with the hemp program's legal requirements including 6 V.S.A. chapter 34 and the Vermont Hemp Rules.
7. If the Agency determines that a registrant intentionally, willfully, and/or knowingly violated Federal or State law and/or the Vermont Hemp Rules, the Agency will take more significant enforcement action than if a registrant made a good faith effort to comply with the law and the Vermont Hemp Rules. If the Agency determines that a registrant violated the State plan with a culpable mental state greater than negligence, it may report the producer to the U.S. Attorney General and/or the chief law enforcement officer of the State as appropriate. If the Agency determines that the culpable violation breached federal or State criminal laws, then it

will report the producer to the U.S. Attorney General and/or the State's chief law enforcement officer as appropriate.

8. The following citations refer to Agency enforcement:

6 V.S.A. §568(b). To enforce the provisions of this chapter, the Secretary, upon presenting appropriate credentials, may conduct one or more of the following:

(1) Enter upon any premises where hemp is grown or processed and inspect premises, machinery, equipment and facilities, any crop during any growth phase, or any hemp product or hemp-infused product during processing or storage. Inspection under this section may include the taking of samples, inspection of records, and inspection of equipment or vehicles used in the growing, processing, or transport of hemp crops, hemp products, or hemp-infused products.

(2) Inspect any retail location offering hemp products or hemp-infused products. Inspection under this section may include the taking of samples of such products.

(3) Issue and enforce a written or printed "stop sale" order to the owner or custodian of any hemp crop, hemp product, or hemp-infused product subject to the requirements of this chapter or rules adopted under this chapter that the Secretary finds is in violation of any of the provisions of this chapter or rules adopted under this chapter. An order may prohibit further sale, processing, and movement of the hemp crop, hemp product, or hemp-infused product until the Secretary has approved and issued a release from the "stop sale" order; and Vermont Hemp Rules Sections 4.1, 9.1, and 14.

VII. Information Sharing

1. The Agency will report information to USDA in accordance with the reporting requirements in 7 C.F.R. § 990.70.
2. The Agency will collect and submit to USDA, by the first of each month, a report providing the contact information and the status of the license or other authorization issued for each producer covered under its State plan. The registration application will include contact information for each hemp producer including:
 - a. Full name, registration number, address, telephone number, and email address; and
 - b. If the producer is a business entity, the information will include the full name of the business, registration number, address of the principal business location, full name and title of the primary registrant/"key participants" (for whom the felony conviction bar applies), and an email address if available.
 - c. For each producer included in a previous monthly report within the registration year whose reported information has changed, the report shall include the previously reported information and the new information.
 - d. The status of each producer's license or authorization.
 - e. The period covered by the report.
 - f. Indication that there were no changes during the current reporting cycle, if applicable.
3. The Agency will require producers to report their total acreage of hemp planted, harvested, and disposed or remediated (if applicable) to the Agency, which will share that information with USDA.
4. The Agency will notify USDA whenever a producer produces cannabis that exceeds the acceptable hemp THC level by the first business day of each month. The Agency's disposal report will include any occurrence of non-conforming plants or plant material and provide a disposal or remediation record for those plants and materials. The report will include the name and contact information for each producer subject to disposal or remediation during the reporting period, including the date the disposal or remediation was completed. The disposal report shall include:
 - a. the name and address of the producer,
 - b. the producer license or authorization identifier,

- c. location information of the production area subject to disposal,
 - d. information on the agent handling disposal,
 - e. the disposal completion date, and
 - f. total acreage.
5. The Agency will submit an annual report to USDA. The report shall be submitted by December 15 of each year on the form USDA requires and contain the following information:
- a. Total planted acreage,
 - b. Total harvested acreage, and
 - c. Total acreage disposed and remediated.
6. The Agency will ask certified laboratories that perform required delta-9 THC testing for registered hemp producers to report results to USDA. (Under 7 C.F.R. § 990.70, producers are responsible for ensuring that laboratories report their results.) The test results report to USDA shall contain:
- a. Producer's license or authorization identifier,
 - b. Name of producer,
 - c. Business address of producer,
 - d. Lot identification number for the sample,
 - e. Name of laboratory and, no later than December 31, 2022, the laboratory's DEA registration number,
 - f. Date of test and report,
 - g. Identification of a pre-harvest or post-harvest retest, and
 - h. Test result.
7. In accordance with 7 C.F.R. § 990.7, the Agency will ask producers to report the following information to the USDA Farm Service Agency (FSA):

- a. street address and to the extent practicable, geospatial location for each hemp lot or greenhouse for all production sites;
 - b. acreage dedicated to the production of hemp, or greenhouse or indoor square footage dedicated to the production of hemp; and
 - c. producers' license or authorization identifiers.
8. The Agency will retain records for a minimum of three years.
9. The following citations refer to requirements for registered growers to share information with the Vermont Hemp Program:

6 V.S.A. §564(b)(1). A person shall register annually with the Secretary as part of the State Hemp Program in order to grow, process, or test hemp or hemp products in the State. A person shall apply for registration or renewal of a registration on a form provided by the Secretary. The application shall be accompanied by the fee required under section 570 of this title. The application or renewal form shall include:

(A) the name and address of the person applying for or renewing a registration [...]

(C) for a person applying as a grower:

(i) the location and acreage of all parcels where hemp will be grown;

(ii) a statement that the seeds obtained for planting are of a type and variety that do not exceed the federally defined tetrahydrocannabinol concentration level of hemp; [...]

(2) The Secretary may verify the information provided in the application or renewal form under subdivision (1) of this subsection and on any maps accompanying the application or renewal form and may request additional information in order to perform a review of an application for registration or renewal; and

Vermont Hemp Rules Sections 4, 5.7, and 9.

VIII. Certification of Resources

The State of Vermont has the resources and the personnel to carry out the practices and procedures in the above-described State of Vermont’s Hemp Production Plan submitted to the United States Department of Agriculture, pursuant to Section 297B(a)2(A)(i-vii) of the Agriculture Improvement Act of 2018, and more formally outlined in the Hemp Final Rule (7 C.F.R. Part 990: Establishment of a Domestic Hemp Production Program), and the State law and regulations enumerated in and authorized by 6 V.S.A chapter 34.

IX. Plan Approval, Technical Assistance and USDA Oversight

The Agency submits its State of Vermont Hemp Production Plan to USDA for approval of the State's plan to allow hemp production in Vermont.

USDA has the authority to audit States and Tribes to determine if they are in compliance with the terms and conditions of their approved plans. If a State or Tribe is noncompliant with its plan, USDA will work with that State or Tribe to develop a corrective action plan following the first case of noncompliance. USDA posts approved State and Tribal plans, including their respective rules, regulations and procedures, on USDA's hemp program website. Additionally, changes to the provisions or procedures under rule or statute may require plan revision and resubmission to USDA for approval. Federal statutory amendments could result in revocation of some or all plans. If USDA decides to revoke a State's plan, the revocation will begin after the end of the current calendar year so producers may adjust and apply for a license under USDA's plan.