

**PLAN TO REGULATE HEMP PRODUCTION
IN THE
COMMONWEALTH OF VIRGINIA**

7 CFR 990.3(a)(1) PRACTICE AND PROCEDURES FOR COLLECTING, MAINTAINING, AND REPORTING INFORMATION TO THE SECRETARY OF AGRICULTURE OF THE UNITED STATES

- State plan must include a practice to collect, maintain, and report to the Secretary of Agriculture of the United States relevant, real-time information for each hemp producer authorized in the state to produce hemp, including contact information described in 7 CFR 990.70(a)(1), a legal description of the land on which a producer will produce hemp, and the status of authorized producers and authorization numbers of producers.
- Contact information described in 7 CFR 990.70(a)(1)(i) includes for each producer who is an individual: (i) full name, authorization identifier, Employee Identification Number of the business entity, business address, telephone number, and email address (if available).
- Contact information described in 7 CFR 990.70(a)(1)(ii) includes for each producer who is an entity, the full name of the entity; address of the principal business location; authorization identifier; and full name, title, and email address (if available) of each employee for whom the entity is required to submit a criminal history report.

VIRGINIA REGULATORY PLAN

1. Section 3.2-4115 of the Virginia Industrial Hemp Law (Law) authorizes the Commissioner of Agriculture and Consumer Services (Commissioner) to establish a registration program to allow a person to grow industrial hemp in the Commonwealth and requires that anyone seeking to grow industrial hemp in the Commonwealth apply to the Commissioner for a registration to do so. Section 3.2-4115 of the Law establishes the minimum information that an applicant for this registration must provide to the Commissioner, including the applicant's name and mailing address and a legal description and geographic data sufficient for locating the land on which the applicant intends to grow hemp.
2. The Virginia Department of Agriculture and Consumer Services (VDACS) will maintain and report to USDA the contact information for Registered Industrial Hemp Growers, the coordinates of the land on which a Registered Industrial Hemp Grower intends to produce hemp, the status of Registered Industrial Hemp Grower and changes thereto, and registration numbers of Registered Industrial Hemp Growers as required by 7 CFR Part 990.
3. See Appendix One for the draft application for an Industrial Hemp Grower Registration.

7 CFR 990.3(a)(2) PROCEDURE FOR ACCURATE AND EFFECTIVE SAMPLING

- State plan must include a procedure for accurate and effective sampling of hemp produced.
- Samples must be collected by a sampling agent within 30 days prior to the anticipated harvest
 - "Sampling agent" is not defined; however the rule provides that a hemp producer may not collect samples from their own growing facility.
- Samples must be obtained from the flowering tops of cannabis and shall be approximately

- five to eight inches in length from the main stem, terminal bud, or central cola.
- Method used for sampling must be sufficient at a confidence level of 95 percent that no more than one percent of the plants in the lot would exceed the acceptable hemp THC level and that the sample represents a homogenous composition of the lot.
 - Alternatively, a state may adopt a performance-based method that (i) is part of the state hemp plan and subject to USDA approval and (ii) has the potential to ensure, at a confidence level of 95 percent, that the cannabis that will be subject to the alternative method will not test above the acceptable hemp THC level.
- Procedure to require the producer or an authorized representative of the producer to be present at the growing site during sample collection, if possible.
- Procedure to allow sampling agent to have complete and unrestricted access during business hours to all hemp and other cannabis plants and to all land, buildings, and other structures used for cultivation, handling, and storage of all hemp and other cannabis plants and all locations listed in the producer license.
- Procedure to ensure that a producer does not harvest cannabis crop prior to samples being taken.
- Procedure to ensure sampling agents are trained using USDA or state training procedures.
- State must maintain information, available to producers, about trained sampling agents.

VIRGINIA REGULATORY PLAN

1. Section 3.2-4114.2 of the Law authorizes the Commissioner to monitor and randomly test industrial hemp, at the cost of the grower, for compliance with tetrahydrocannabinol limits. This section also authorizes the Commissioner to inspect and sample industrial hemp at any production field during normal business hours without advance notice if the Commissioner has reason to believe a violation of the Law is occurring or has occurred.
2. VDACS's 2022 Field Sampling Guidelines instruct the individual collecting a sample from an industrial hemp lot (hereinafter, "sampling agent") on collecting a sample that is comprised of the inflorescence of the plants sampled and that is representative of a homogenous composition of the lot.
3. VDACS will direct individuals who wish to become a sampling agent to complete USDA's training for sampling agents and submit documentation of completion to VDACS.
4. VDACS's nursery inspection staff will also complete USDA's training for sampling agents in order to collect regulatory samples from Registered Industrial Hemp Growers in certain situations. Such sample collection services by VDACS will be subject to staff availability.
5. VDACS will maintain a list of sampling agents on the agency's website.
6. VDACS will remove from the list of sampling agents on the agency's website an individual who VDACS determines fails to sample in accordance with the 2022 Field Sampling Guidelines, including the requirement to collect a sample that is approximately five to eight inches in length from the main stem, terminal bud, or central cola.
7. VDACS will direct Registered Industrial Hemp Growers to obtain the services of a sampling agent to collect a sample that represents a homogenous composition of each of the grower's lots within the 30 days prior to the grower's anticipated harvest date and to allow a sampling agent to have complete and unrestricted access during business hours to all industrial hemp and other cannabis plants and to all land, buildings, and other structures used for cultivation, handling, and storage of all hemp and other cannabis plants and all locations listed on the grower registration.

8. A Registered Industrial Hemp Grower will be responsible for the cost of any required sample collection.
9. VDACS will request that Registered Industrial Hemp Growers submit an Industrial Hemp Planting and Propagation Report and an Industrial Hemp Harvest Report, both of which VDACS will use to ensure that sampling is conducted within the 30 days prior to the grower's anticipated harvest date. By initialing and signing the application for an Industrial Hemp Grower Registration, the applicant agrees to submit these reports.
10. VDACS's 2022 Field Sampling Guidelines provide that a grower or his agent shall accompany the sampling agent throughout the lot sampling process.
11. The Industrial Hemp Planting and Propagation Report will alert a Registered Industrial Hemp Grower that he shall not harvest his industrial hemp lot until a sampling agent collects a sample from the lot, if possible.
12. VDACS may determine that Registered Industrial Hemp Growers (i) who are researchers at institutions of higher education and whose industrial hemp is not entering commerce or (ii) who grow certain industrial hemp lots produced for the purpose of fiber may not be subject to the sampling requirements above. For such growers, VDACS will use alternative sampling methods that the agency believes has the potential to ensure, at a confidence level of 95 percent, that the cannabis plant species *Cannabis sativa* L. that will be subject to this alternative method will not test above the acceptable hemp THC level. Specifically, VDACS will determine which lots may be subject to an alternative sampling method upon the request of a Registered Industrial Hemp Grower who believes his lot may meet the criteria established in this subsection. A Registered Industrial Hemp Grower must request this determination within 14 days of planting the industrial hemp lot that may meet this criteria. VDACS will provide written documentation to a Registered Industrial Hemp Grower that the grower does not need to sample as required above. Instead, such growers must meet the appropriate alternative sampling requirements below:
 - A Registered Industrial Hemp Grower who is a researcher at an institute of higher education and whose industrial hemp is not entering commerce shall:
 - Adopt a protocol to ensure at a confidence level of 95 percent that the *Cannabis sativa* subject to this protocol will not test above the acceptable industrial hemp THC level.
 - Ensure the disposal of all plants that exceed the acceptable industrial hemp THC level by burning, plowing under, mulching, or disking the plants.
 - Submit to VDACS a report on the disposal of the plants.
 - A Registered Industrial Hemp Grower who (i) is producing an industrial hemp lot for the purpose of fiber and (ii) is a named party to a production contract with an industrial hemp fiber processing facility shall:
 - Be subject to random sampling and testing, as determined by VDACS, in order to ensure at a confidence level of 95 percent that the *Cannabis sativa* subject to this performance-based alternative to sampling will not test above the acceptable industrial hemp THC level.
 - Ensure the disposal of all plants that exceed the acceptable industrial hemp THC level by burning, plowing under, mulching, or disking the plants.
 - Submit to VDACS a report on the disposal of the plants.
13. See Appendix Two for the draft 2022 Field Sampling Guidelines.

7 CFR 990.3(a)(3) PROCEDURE FOR TESTING

- State shall have a procedure for testing that is able to accurately identify whether the sample contains a total delta-9 THC concentration that exceeds the acceptable hemp THC level. Testing methods must be validated and use postdecarboxylation or other similarly reliable method; must consider the potential conversion of delta-9 THCA into THC and the test result must report the total available THC (THC + THCA); and must determine and report total THC concentration on a dry weight basis.
- Any test of a representative sample resulting in higher than the acceptable hemp THC level shall be conclusive evidence that the lot represented by the sample is not in compliance with 7 CFR Part 990. Procedure to ensure that such lot is disposed of or remediated in accordance with § 990.27.
- Procedure to ensure samples of hemp plant material from one lot shall not be commingled with hemp plant material from other lots.
- Procedures to require hemp testing laboratories:
 - Shall have quality assurance that ensures the validity and reliability of test results;
 - Shall have analytical method selection, validation, and verification that ensures that the testing method used is appropriate (fit for purpose), and that the laboratory can successfully perform the testing;
 - Shall demonstrate that testing validity ensures consistent, accurate analytical performance;
 - Shall have method performance specifications that ensure analytical tests are sufficiently sensitive for the purposes of the detectability requirements of 7 CFR Part 990;
 - Shall have effective disposal procedures for non-compliant samples that do not meet the requirements of 7 CFR Part 990;
 - Shall estimate and report measurement of uncertainty with test results;
 - Shall use appropriate, validated methods and procedures for all testing activities and evaluate measurement of uncertainty;
 - Shall grind pre- or post-harvest samples to ensure homogeneity of plant material prior to testing;
 - After December 31, 2022, shall be registered with the U.S. Drug Enforcement Administration.

VIRGINIA REGULATORY PLAN

1. Section 3.2-4114.2 of the Law authorizes the Commissioner to monitor and randomly test industrial hemp, at the cost of the grower, for compliance with tetrahydrocannabinol limits.
2. VDACS will assess compliance and negligence based on a sample's total available delta-9 THC, which will consider the conversion of delta-9 THCA into delta-9 THC.
3. VDACS will assess compliance and negligence using the measured total delta-9 THC concentration stated on the testing laboratory's Report of Analysis (ROA) and the measurement of uncertainty stated on the testing laboratory's ROA.
 - An acceptable industrial hemp THC level is when the application of the measurement of uncertainty to the reported delta-9 THC content concentration level on a dry weight basis produces a distribution or range that includes 0.30 percent or less (hereinafter,

- “acceptable industrial hemp THC level”).
4. VDACS’s 2022 Field Sampling Guidelines include procedures to ensure samples of hemp plant material from one lot shall not be commingled with hemp plant material from other lots.
 5. Va. Code § 3.2-4114.2 authorizes the Commissioner to require a Registered Industrial Hemp Grower to destroy any Cannabis sativa that has been tested and found to have a THC concentration greater than that allowed by federal law. Va. Code § 3.2-4116 requires a Registered Industrial Hemp Grower to destroy any Cannabis sativa that has been tested and found to have a THC concentration greater than that allowed by federal law, if required by the Commissioner. VDACS will use this authority to prevent the processing or entering into the stream of commerce of any hemp grown in a lot where the acceptable hemp THC level is noncompliant and is not remediated.
 6. VDACS will offer a Registered Industrial Hemp Grower with an industrial hemp lot that has been tested and found to have a THC concentration greater than the acceptable industrial hemp THC level the opportunity to remediate the lot by (i) removing and destroying all flower material, while retaining stalk, stems, leaf material, or seeds or (ii) shredding the entire industrial hemp lot. A Registered Industrial Hemp Grower who elects to remediate an industrial hemp lot must obtain the services of a sampling agent to sample the remediated industrial hemp lot and must obtain the services of a testing laboratory to test the THC concentration of the sample of the remediated industrial hemp lot. The Commissioner will require a Registered Industrial Hemp Grower to destroy all of the remaining material included in a remediated industrial hemp lot that has a THC concentration that exceeds the acceptable industrial hemp THC level.
 7. VDACS’s 2022 Field Sampling Guidelines include procedures for sampling a shredded industrial hemp lot.
 8. VDACS will identify laboratories that meet the requirements established in § 990.3(a)(3)(iii)(A) through (G). Laboratories will have validated THC concentration testing methods and use gas or liquid chromatography with detection; must consider the potential conversion of delta-9 THCA into THC and produce a test result that reports the total available THC (THC + THCA) and the laboratory’s measurement of uncertainty for a THC concentration test; and must determine and report total THC concentration on a dry weight basis. After December 31, 2022, when testing laboratories must be registered with the U.S. Drug Enforcement Administration, VDACS will identify laboratories that meet the requirements established in § 990.3(a)(3)(iii)(A) through (H).
 9. VDACS will direct Registered Industrial Hemp Growers (i) to use only those laboratories identified as meeting the requirements when obtaining the required pre-harvest testing and, if applicable, the required post-harvest retesting or (ii) to provide documentation that the laboratory, if not previously identified by VDACS, from which the grower obtains the required testing meets the requirements established in § 990.3(a)(3)(iii)(A) through (H). A Registered Industrial Hemp Grower will be responsible for the cost of any required testing.
 10. See Appendix Two for draft 2022 Field Sampling Guidelines.

7 CFR 990.3(a)(4) PROCEDURE FOR NOTIFICATION AND DISPOSAL OF PLANTS OR PLANT MATERIAL THAT DO NOT MEET THE DEFINITION OF HEMP

- State shall require testing laboratories to comply with USDA reporting requirements in Subpart F of 7 CFR Part 990. For tests conducted to determine compliance, laboratories

shall report the following to USDA:

- Producer's license or authorization identifier;
- Name of producer;
- Business address of producer;
- Lot identification number for the sample;
- Name of laboratory and, no later than December 31, 2022, the DEA registration number of laboratory;
- Date of test and report;
- Identification of pre-harvest or post-harvest retest;
- Test result.

VIRGINIA REGULATORY PLAN

1. VDACS will identify laboratories that will meet the reporting requirements established in § 990.70(d). Successful laboratories will indicate the ability to report the following to USDA: (i) producer's license or authorization identifier; (ii) name of producer; (iii) business address of producer; (iv) lot identification number for the sample; (v) name of laboratory; (v) date of test and report; (vi) identification of pre-harvest or post-harvest retest; and (vii) test result.
2. VDACS will direct Registered Industrial Hemp Growers to use only those laboratories identified as able to meet the reporting requirements. By initialing and signing the application for an Industrial Hemp Grower Registration, the applicant agrees to use such laboratories.

7 CFR 990.3(a)(5) PROCEDURE FOR ENFORCEMENT

- State plan must include a procedure to comply with the enforcement procedures in 7 CFR 990.6.
- Producer violations of USDA-approved state plans shall be subject to enforcement in accordance with the term of 7 CFR 990.6
- 7 CFR 990.6(b) establishes that negligent violations shall include (i) failure to provide legal description of land; (ii) failure to obtain an authorization to produce; and (iii) production of cannabis with THC exceeding the acceptable hemp THC level. A producer does not commit a negligent violation if they make reasonable efforts to grow hemp and the cannabis does not have a total delta-9 THC concentration of more than 1.0 percent on a dry weight basis. A producer shall not receive more than one negligent violation per growing season ("growing season" is not defined).
- 7 CFR 990.6(c) establishes that corrective action plans for negligent violations shall include (i) a reasonable date to correct the violation; (ii) reporting requirements for not less than two years from date of the negligent violation; (iii) violations are not subject to federal, state, tribal, or local government criminal enforcement action; (iv) that a producer who negligently violates a USDA-approved state plan three times within a five-year period is ineligible to produce hemp for a period of five years from the date of the third violation; and (v) state or tribal government shall conduct inspections to determine if corrective action plan has been implemented.
- 7 CFR 990.6(d) establishes that, when a producer's violation is made with a culpable mental state greater than negligence, the state shall immediately report the producer to the

U.S. Attorney General and the chief law enforcement officer of the state.

- 7 CFR 990.6(e) establishes that states shall (i) provide for a ten-year ineligibility restriction for persons with a state or federal felony conviction relating to a controlled substance and provide for controlled substance felony conviction exception for participants in a state hemp pilot program authorized under section 7606 of the Agricultural Act of 2014 before December 20, 2018 and whose conviction occurred before that date; (ii) define who is participating and is subject to the felony conviction restriction and, to determine whether a person is subject to the felony conviction restriction, obtain a criminal history report for that person; and (iii) for each authorization issued, identify at least one individual as participating in the plan and for whom it will obtain a criminal history report.
- 7 CFR 990.6(f) establishes that a state shall state that any person who materially falsifies any information in his application is ineligible to participate in the program.

VIRGINIA REGULATORY PLAN

1. Va. Code § 3.2-4114.2(I) authorizes the Commissioner to establish a corrective action plan to address negligent violations of the Industrial Hemp Law.
2. Va. Code § 3.2-4118(C) requires a Registered Industrial Hemp Grower who negligently (i) fails to provide a description and geographic data sufficient for locating his production field or (ii) grows Cannabis sativa with a tetrahydrocannabinol concentration greater than that allowed by federal law to comply with any corrective action plan established by the Commissioner. Va. Code § 3.2-4118(C) prohibits the Commissioner from deeming a Registered Industrial Hemp Grower negligent if the grower makes reasonable efforts to grow industrial hemp and grows Cannabis sativa with a THC concentration that does not exceed the total delta-9 THC concentration percentage established in 7 CFR 990.6(b)(3).
3. Va. Code § 3.2-4118(D) requires a person who grows industrial hemp and who negligently fails to register pursuant to subsection A of § 3.2-4115 to comply with any corrective action plan established by the Commissioner.
4. Va. Code § 3.2-4118(E) requires that a corrective action plan established by the Commissioner in response to a negligent violation of a provision of the Industrial Hemp Law identify a reasonable date by which the person who is the subject of the plan shall correct the negligent violation and shall require such person to report periodically for not less than two calendar years to the Commissioner on the person's compliance with the provisions of the Industrial Hemp Law.
5. Va. Code § 3.2-4118(F) provides that no person who negligently violates the provisions of the Industrial Hemp Law three times in a five-year period shall be eligible to grow industrial hemp for a period of five years beginning on the date of the third violation.
6. When a person growing industrial hemp negligently violates the Industrial Hemp Law, the Commissioner will establish a corrective action plan for that person that shall include (i) a reasonable date to correct the violation and (ii) reporting requirements for not less than two years from date of the negligent violation. VDACS will conduct inspections to determine if the corrective action plan has been implemented.
7. VDACS will not refer negligent violations of the Industrial Hemp Law to federal, state, tribal, or local government criminal enforcement authorities for action.
8. Va. Code § 3.2-4114.2(G) requires the Commissioner to advise the Superintendent of State Police or the chief law-enforcement officer of the appropriate county or city when, with a culpable mental state greater than negligence, a grower grows any cannabis with a THC concentration greater than that allowed by federal law. VDACS will advise the U.S.

Attorney General and the Superintendent of State Police when, with a culpable mental state greater than negligence, a grower grows any cannabis with a THC concentration greater than that allowed by federal law.

9. Va. Code § 3.2-4115(B)(3) provides that a person with a prior felony drug conviction within 10 years of applying for a registration under the Industrial Hemp Law shall not be eligible to be registered. As the Virginia Drug Control Act provides that a "controlled substance" is, in part, a drug, VDACS will interpret Section 3.2-4115(B)(3) of the Industrial Hemp Law to provide that a person with a prior felony controlled substance conviction within 10 years of applying for a registration under the Industrial Hemp Law shall not be eligible to be registered. However, VDACS will not find a person who was lawfully growing hemp under section 7606 of the Agricultural Act of 2014 before December 20, 2018, and whose prior felony controlled substance conviction occurred before that date ineligible for an Industrial Hemp Grower Registration.
10. VDACS will require that applicants for an Industrial Hemp Grower Registration submit a state and federal criminal history report at the time of application. If the applicant for an Industrial Hemp Grower Registration is a business entity, VDACS will require that all key participants (i.e., a sole proprietor, a partner in a partnership, or a person with executive managerial control in a corporation) in the business submit a state and federal criminal history report at the time of application.
11. Va. Code § 3.2-4115 establishes the information that must be included in an application for an Industrial Hemp Grower Registration. Failure to provide this information via a false statement violates the requirements in Va. Code § 3.2-4115, and Va. Code § 3.2-4118(A) requires the Commissioner to deny the application of a person who, with a culpable mental state greater than negligence, violates a provision of the Industrial Hemp Law.

7 CFR 990.3(a)(6) DISPOSAL OR REMEDIATION

- State plan must include a procedure for the disposal or remediation of cannabis plants if the sample representing that plant tests above the acceptable hemp THC level.
- Disposal must be conducted by DEA-registered reverse distributor or law enforcement or at the farm or production facility.
- State plan must include procedure to verify the disposal or remediation of the cannabis.
- If remediation is performed, the post-remediated crop must be sampled and tested to determine its THC concentration.

VIRGINIA REGULATORY PLAN

1. Va. Code § 3.2-4114.2 authorizes the Commissioner to require a Registered Industrial Hemp Grower to destroy any Cannabis sativa that has been tested and found to have a THC concentration greater than that allowed by federal law. Va. Code § 3.2-4116 requires a Registered Industrial Hemp Grower to destroy any Cannabis sativa that has been tested and found to have a THC concentration greater than that allowed by federal law. VDACS will use this authority to prevent the processing or entering into the stream of commerce of any hemp grown in a lot where the acceptable hemp THC level is noncompliant and is not remediated.
2. VDACS will offer a Registered Industrial Hemp Grower with an industrial hemp lot that has been tested and found to have a THC concentration greater than the acceptable

industrial hemp THC level the opportunity to remediate the lot by (i) removing and destroying all flower material, while retaining stalk, stems, leaf material, or seeds or (ii) shredding the entire industrial hemp lot. A Registered Industrial Hemp Grower who elects to remediate an industrial hemp lot must obtain the services of a sampling agent to sample the remediated industrial hemp lot and must obtain the services of a testing laboratory to test the THC concentration of the sample of the remediated industrial hemp lot. The Commissioner will require a Registered Industrial Hemp Grower to destroy all of the material included in a remediated industrial hemp lot that has a THC concentration that exceeds the acceptable industrial hemp THC level.

3. VDACS's 2022 Field Sampling Guidelines include procedures for sampling a shredded industrial hemp lot.
4. VDACS will verify remediation by reviewing the test result of the sample collected from the remediated industrial hemp lot.
5. The Commissioner will require a Registered Industrial Hemp Grower with an industrial hemp lot that has been tested and found to have a THC concentration greater than the acceptable industrial hemp THC level who declines the opportunity to remediate the industrial hemp lot to destroy all plant material in the lot. A Registered Industrial Hemp Grower shall complete this destruction by burning, plowing under, mulching, or disking the lot.
6. VDACS will verify destruction of a noncompliant lot by directing a Registered Industrial Hemp Grower with an industrial hemp lot that has been tested and found to have a THC concentration greater than the acceptable industrial hemp THC level to submit to VDACS (i) a photograph of the lot before the destruction and (ii) a photograph of the lot after the destruction.
7. VDACS will submit a monthly report notifying USDA of any occurrence of non-conforming plants or plant material and providing a disposal or remediation record of those plants and materials, as required by 7 CFR 990.70(b).

7 CFR 990.3(a)(7) ANNUAL INSPECTION

- Procedure for conducting annual inspections of, at a minimum, a random group of producers to verify that hemp is not produced in violation of 7 CFR Part 990.

VIRGINIA REGULATORY PLAN

1. Section 3.2-4114.2 of the Law authorizes the Commissioner to monitor and randomly sample and test industrial hemp, at the cost of the grower, for compliance with tetrahydrocannabinol limits. This section also authorizes the Commissioner to inspect and sample industrial hemp at any production field during normal business hours without advance notice if the Commissioner has reason to believe a violation of the Law is occurring or has occurred.
2. VDACS will conduct random inspections of Registered Industrial Hemp Growers annually.

7 CFR 990.3(a)(8) PROCEDURE FOR SUBMITTING INFORMATION TO USDA

- Procedure for submitting the information described in 7 CFR 990.70 to the Secretary by the first of the month in a format compatible with USDA's information sharing system.

- 7 CFR 990.70(a) requires a state to submit by the first of each month a report providing the contact information and status of the authorization to grow for each producer.
- 7 CFR 990.70(b) requires a state to submit by the first of each month a report notifying USDA of any occurrence of non-conforming plants or plant material and providing a disposal or remediation record of those plants and materials.
- 7 CFR 990.70(c) requires a state to submit an annual report by December 15 regarding total planted, harvested, and disposed of and remediated acreage.
- 7 CFR 990.70(d) requires producers to ensure that test results are submitted to USDA.

VIRGINIA REGULATORY PLAN

1. VDACS will submit all required reports required by 7 CFR 990.70 by the first of each month or by December 15, as required by 7 CFR 990.70.
2. VDACS will direct producers to ensure that their testing laboratory submits their test results to USDA.

7 CFR 990.3(a)(9) CERTIFICATION REGARDING RESOURCES

- Certification that the state has resources and personnel to carry out the practices and procedures described in 7 CFR 990.3(a)(1) through 7 CFR 990.3(a)(9).

VIRGINIA REGULATORY PLAN

1. VDACS currently has one filled full-time equivalent (FTE) designated to support the industrial hemp registration program and two vacant FTEs designated to support the industrial hemp registration program. In an effort to transition the industrial hemp registration program to a self-supporting program, in 2020, the Virginia General Assembly increased the industrial hemp registration application fees and decreased to \$32,735 the general fund appropriation that VDACS receives to support the industrial hemp registration program. In fiscal year 2021, VDACS collected approximately \$220,000 in revenue from application fees for Industrial Hemp Grower, Processor, and Dealer Registrations.
2. VDACS plans to utilize existing resources to administer the industrial hemp registration program, including the registration of industrial hemp growers as outlined in this Plan, and to perform the necessary enforcement activities and reporting requirements prescribed in USDA's Domestic Hemp Production Program regulation.
3. Registered Industrial Hemp Growers will be responsible for the cost of required sampling, testing, and destruction.

7 CFR 990.3(a)(10) PROCEDURE TO SHARE INFORMATION WITH USDA

- State plan must include a procedure to require producers to share hemp lot acreage with USDA's Farm Service Agency; a procedure to assign producers an authorization identifier that is in a format prescribed by USDA; and a procedure to require producers to report to the state the total acreage of hemp planted, harvested, and disposed of or remediated and by which the state will collect and report this data to USDA's Agricultural Marketing Service.

VIRGINIA REGULATORY PLAN

1. VDACS's Industrial Hemp Grower Registration application materials will direct growers to

report their hemp lot acreage to FSA. By initialing and signing the application for an Industrial Hemp Grower Registration, the applicant agrees to submit this report.

2. VDACS will format Industrial Hemp Grower Registration numbers in accordance with the format prescribed by USDA.
3. VDACS will submit all required reports required by 7 CFR 990.70, including the total acreage of hemp planted, harvested, and disposed of or remediated.

For office use only

Reviewed by: _____

Registration issued on: _____

**VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
OFFICE OF POLICY, PLANNING, AND RESEARCH**

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INDUSTRIAL HEMP GROWER REGISTRATION APPLICATION

OPPR-200 (Rev. xx/2022)

The annual Industrial Hemp Grower Registration application fee is **\$150**. Please make a check for \$150 payable to **Treasurer of Virginia** and mail your check and application materials to the address above.

SECTION ONE – APPLICANT IDENTIFICATION

Do you currently have an Industrial Hemp Grower Registration? Yes No

If yes, please provide your registration number and its expiration date:

Registration Number

Expiration Date

Do not complete both Section 1-A and Section 1-B.

SECTION 1-A. Please complete Section 1-A if you are applying as an individual.

Applicant Name:

Physical Address
Where Applicant
Resides:

Mailing Address:

Telephone Number:

Email Address:

SECTION 1-B. Please complete Section 1-B if you are applying on behalf of a business.

NOTE: The business will be the registered grower and the registration will be issued in the name of the business entity. A “key participant” is a sole proprietor, a partner in a partnership, or a person with executive managerial control in a corporation, including the chief executive officer, the chief operating officer, or the chief financial officer. Please attach an additional sheet if the business has more than four key participants.

Business Name:	
Federal EIN Number:	
Physical Address of Principal Place of Business:	
Mailing Address:	
Name and Title of Key Participant:	
Name and Title of Key Participant (if applicable):	
Name and Title of Key Participant (if applicable):	
Name and Title of Key Participant (if applicable):	
Telephone Number:	
Email Address:	

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SECTION TWO – CRIMINAL HISTORY

A Virginia State Police criminal history record check and an FBI Identity History Summary must be completed and attached to the Industrial Hemp Grower Registration Application upon submission. If applying on behalf of a business entity, a Virginia State Police criminal history record check and an FBI Identity History Summary must be completed and attached for all key participants. The applicant is solely responsible for all associated criminal background check fees.

NOTE: An individual with a felony controlled substance conviction within 10 years of the application date is not eligible for an Industrial Hemp Grower Registration.

- I have attached a Virginia State Police criminal history record check and an FBI Identity History Summary for myself.
- I am applying on behalf of a business entity and have attached a Virginia State Police criminal history record check and an FBI Identity History Summary for all key participants.

SECTION THREE – INDUSTRIAL HEMP LOT(S)

“Lot” means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of cannabis throughout the area.

Please identify the lot(s) on which you plan to grow industrial hemp. Please attach an additional sheet if you plan to grow industrial hemp on more than two lots.

NOTE: Failure to submit an application with completed lot information will result in delay of processing. If you are unsure how to obtain the coordinates for your lot(s) or storage site(s), please visit our [website](#) and access the “[Coordinate Location Guide](#).”

Lot 1	
Acres/Square Feet	Coordinates (for center of field, in <u>Decimal Degrees</u>) (Ex.37.123456, -77.123456)
Physical Address/Location	

Lot 2	
Acres/Square Feet	Coordinates (for center of field, in <u>Decimal Degrees</u>) (Ex.37.123456, -77.123456)
Physical Address/Location	

If you plan to store raw hemp material, please identify the location of the storage site. Please attach an additional sheet if you plan to store industrial hemp at more than two storage sites.

Storage Site 1	
Square Feet	Coordinates (storage site location, in <u>Decimal Degrees</u>) (Ex.37.123456, -77.123456)
Physical Address/Location	

--

Storage Site 2	
Square Feet	Coordinates (storage site location, in <u>Decimal Degrees</u>) (Ex.37.123456, -77.123456)
Physical Address/Location	

Please indicate your anticipated planting date(s).

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Please indicate your anticipated harvest date(s).

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SECTION FOUR - AGENTS

The Virginia Industrial Hemp Law provides that it is lawful for a grower or his agent to grow industrial hemp in the Commonwealth for any lawful purpose and that no grower or his agent shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 of the Code of Virginia or §§ 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, or 18.2-250 for the possession or growing of industrial hemp.

Please provide the names of the individuals you expect will be your agents for the purpose of growing hemp under the Virginia Industrial Hemp Law on the lot(s) listed in this application.

Full Name of Potential Agents

NOTE: Registered growers may wish to provide the “Agent Documentation” form available on the VDACS website to each person they intend to serve as their agent for the limited purpose of growing industrial hemp. **You do not need to submit this form to VDACS.**

SECTION FIVE - NOTICES AND AFFIRMATIONS

By initialing and signing below, the applicant acknowledges that the applicant has read and agrees to the following:

- _____ Initials

 - VDACS will forward a record of each Industrial Hemp Grower Registration issued by the Commissioner to the chief law enforcement officer of the locality in which the registered grower will grow industrial hemp.
- _____ Initials

 - VDACS will notify the Superintendent of State Police of the locations of all industrial hemp lots.
- _____ Initials

 - All records, data, and information filed in support of a registration application shall be considered proprietary and excluded from the provisions of the Virginia Freedom of Information Act.
- _____ Initials

 - Registered Industrial Hemp Growers shall submit an Industrial Hemp Planting Report (i) within 14 calendar days following the first day of each planting or (ii) by July 31 for registered lots upon which industrial hemp will not be planted.
- _____ Initials

 - Registered Industrial Hemp Growers shall submit an Industrial Hemp Harvest Report within five calendar days following the harvest of an industrial hemp lot.
- _____ Initials

 - Registered Industrial Hemp Growers shall report the following to the USDA Farm Service Agency (FSA).
 - Hemp crop acreage
 - Reporting total acreage of hemp planted, harvested, and disposed or remediated
 - Registration number
 - Street address
 - Geospatial location(s) of each lot or greenhouse where hemp will be produced
 - Acreage of greenhouse or indoor square footage dedicated to the production of hemp
- _____ Initials

 - Registered Industrial Hemp Growers shall not harvest or place into the stream of commerce any industrial hemp grown that has not been tested and determined to have an acceptable industrial hemp THC level.
- _____ Initials

 - Registered Industrial Hemp Growers must obtain the services of a sampling agent who will collect a representative sample from each industrial hemp lot.
- _____ Initials

 - Registered Industrial Hemp Growers must allow a sampling agent to have complete and unrestricted access during business hours to all industrial hemp and other cannabis plants and to all land, buildings, and other structures used for cultivation, handling, and storage of all industrial hemp and other cannabis plants and all locations listed on the grower registration.
- _____ Initials

 - Registered Industrial Hemp Growers must obtain the services of a testing laboratory that will (i) analyze the Total THC concentration of each representative sample collected by the sampling agent and (ii) submit its test results directly to USDA.

I hereby affirm that, to the best of my knowledge, information, and belief, I have made no misrepresentation on this application or failed to disclose any information requested on this application.

I affirm that I am authorized to give consent to enter the above-described lots(s) and I hereby consent to the Virginia Department of Agriculture and Consumer Services, local law enforcement officials, or the Virginia Department of State Police entering the above-described lot(s) and storage site(s) to conduct physical inspections of the industrial hemp to ensure compliance with the requirements of the Virginia Industrial Hemp Law (Va. Code § 3.2-4112 *et seq.*).

Signature

Date

Print Name

DRAFT



2022 Guidelines for Field Sampling of Industrial Hemp

Summary

These guidelines establish the procedure for entering an industrial hemp lot and collecting a plant sample that is representative of the industrial hemp lot. The guidelines also establish the procedure for collecting a representative sample of remediated biomass.

The goal of this sampling protocol is to ensure at a confidence level of 95 percent that no more than one percent of the plants in each lot will exceed the acceptable industrial hemp tetrahydrocannabinol level and ensure that a sample is collected that represents a homogeneous composition of the lot.

This practice does not purport to address all of the safety concerns, if any, associated with its use. The user of this standard shall exercise caution and follow applicable safety and health practices.

Terminology

“Department” means the Virginia Department of Agriculture and Consumer Services.

“Grower” means a person registered pursuant to subsection A of Va. Code § 3.2-4115 to grow industrial hemp.

“Lot” means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of cannabis throughout the area.

“Remediated biomass” means the flowers, buds, trichomes, leaves, stalks, seed, and all plant parts of noncompliant hemp plants from the same lot that have been shredded.

“Sample” means the combined total number of specimens taken from industrial hemp plants in the lot.

“Sample specimen” or “specimen” means the inflorescence of the industrial hemp plant.

“Sampling agent” means a person (i) who has completed the U.S. Department of Agriculture’s sampling agent training and submitted documentation of completion of this training to the department and (ii) who is listed on the department-maintained list of sampling agents available on the department’s website.

“Stand” means a group or growth of industrial hemp.

“THC” means total delta-9 tetrahydrocannabinol.

Recommended equipment and supplies for sampling

- a. Garden pruners
- b. Paper sample bags
- c. Staples or security tape to seal the bags
- d. Permanent markers
- e. Sample collection forms that include a chain of custody form
- f. GPS unit or other tool to determine GPS location
- g. Disinfectant for tools
- h. Disposable gloves

Procedure to Sample an Industrial Hemp Lot

A sampling agent will enter a lot, strategically examine it, establish an approach for navigating the lot, and collect individual specimens from plants in order to obtain a representative sample of industrial hemp in the lot. Because test methodology requires small aliquots of material, care must be taken to provide samples that accurately reflect the entirety of the growing area.

1. The grower or his agent shall accompany the sampling agent throughout the sampling process, if possible.
2. The sampling agent shall verify the GPS coordinates of the lot as compared with the GPS coordinates on the grower’s registration. Record GPS coordinates of the lot on the sample collection form.
3. The sampling agent shall visually establish the homogeneity of the stand to establish that the lot is of like variety.
4. The sample must be collected within the 30 days prior to the anticipated date of harvest.
5. Each variety or cultivar must be sampled separately.
6. To sample a grower engaged in clone production, sample the mother plants, when in flower.
7. For lots of four acres or less, select four plants for cuttings to form a composite sample.
8. For lots larger than 10 acres, the number of plants that will be selected to form a composite sample is based upon the Codex Alimentarius Recommended Methods of Sampling for the Determination of Pesticide Residues for Compliance with MRLS *CAC/GL 33-1999*.

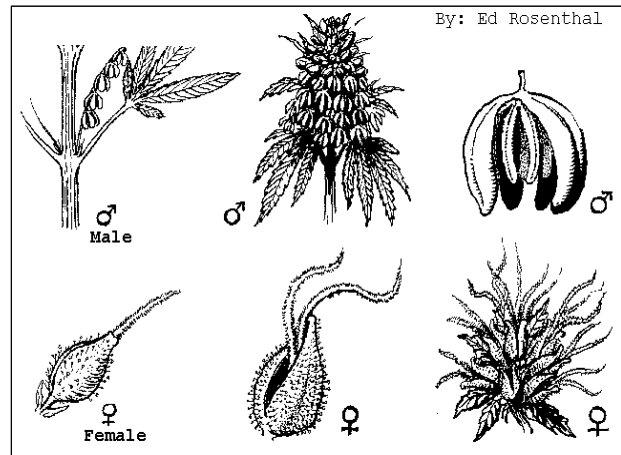
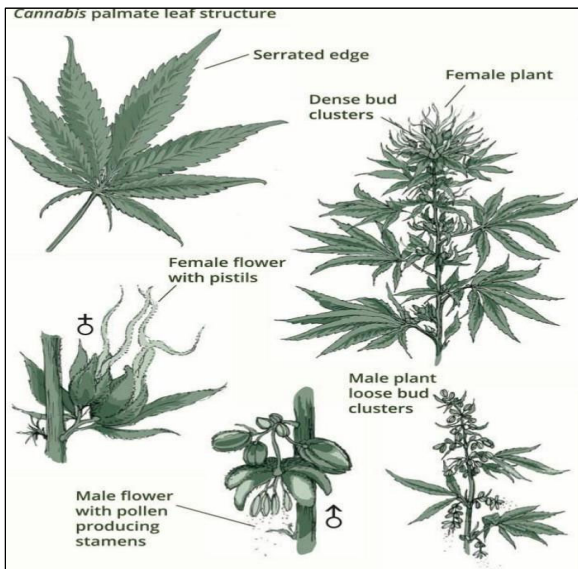
Table I. Total samples to be taken per number of acres

<i>N</i> - Lot, acres	Total Clippings
1	4

2	4
3	4
4	4
5	5
6	6
7	7
8	8
9	9
10	10
15	15
20	18
25	24
30	28
35	32
40	36
45	40
50	43
75	60
100	75

9. When collecting samples from each lot, if possible, walk through the plants to randomly sample throughout the lot. If the stand is so dense that walking through it is not possible, walk access roads, drainage ditches, or other accessible paths that allow penetration into the stand for sampling away from the edge and for detection of plant growth differences.

10. While walking through the lot, the sampling agent shall cut inflorescences at random but convenient distances. Avoid collecting sample specimens from the borders of the lot. **When sampling floral varieties of hemp, sample from female plants only.**



11. The cut shall be made so as to collect approximately five to eight inches in length from the main stem, terminal bud, or central cola.



12. Record the sample number. The samples shall be identified using the following system for assigning sample numbering:

The sample number consists of:
Industrial Hemp Grower Registration number (51-2022-xxx), sample number (xx) (starts with “01” and increases sequentially by one for each sample).

Example of Sample Number:

Grower Registration#	Sequential Sample#
-----------------------------	---------------------------

51_2022-001	01
-------------	----

Record as: 51_2022-001-01

13. Each sample bag must state the following information:

Grower name and registration number

Sample Number

Date

Sampling agent name

14. Seal sample bag with labels, tape, or staples or security tape.

15. Complete Industrial Hemp Sample Collection Form provided by or approved by the department. Obtain signatures of the grower or responsible authority or agent.

16. Samples must be stored in an area that is locked and secure. Freeze samples if holding them for a day or more before delivering to the testing laboratory.

17. Clean tools between samples. Wear disposable gloves or clean hands between samples.

SAMPLE QUANTITY

The volume of plant material selected should reflect the size and volume of material being grown.

For very small plantings where individual or very limited numbers of plants of a variety are present, a minimum of two ounces (oz.) of plant material is required. The two-oz. sample may be used in cases where breeding projects are being inspected.

Procedure to Sample Remediated Biomass

1. The grower or his agent shall accompany the sampling agent throughout the sampling process, if possible.
2. The sampling agent shall collect a representative sample of the remediated biomass. The sampling agent should collect biomass material from various depths, locations, and containers in the labeled and demarcated area to collect a representative sample of the material.
3. The sampling agent shall collect, at a minimum, three standard measuring cups of biomass material. A sampling agent may collect more biomass material based on the requirements of the testing laboratory. If three standard measuring cups of biomass is not available, the sampling agent should collect enough biomass for a representative sample.
4. Record the sample number on the Industrial Hemp Sample Collection Form. The samples shall be identified using the following system for assigning sample numbering:

The sample number consists of:

‘REMED,’ Industrial Hemp Grower Registration number (51_2022-xxx), sample number (xx) (starts with “01” and increases sequentially by one for each sample).

Example of Sample Number:

Remediation Indicator	Grower Registration#	Sequential Sample#
REMED	51_2022-001	01

Record as: REMED-51_2022-001-01

5. Each sample bag must state the following information:
 - Grower name and registration number
 - Sample Number
 - Date
 - Sampling agent name
6. Seal sample bag with labels, tape, or staples or security tape.
7. Complete Industrial Hemp Sample Collection Form provided by or approved by the department. Obtain signatures of the grower or responsible authority or designee.

8. Samples must be stored in an area that is locked and secure. Freeze samples if holding them for a day or more before delivering to the testing laboratory.
9. Clean tools between samples. Wear disposable gloves or clean hands between samples.

INDUSTRIAL HEMP SAMPLE COLLECTION AND CHAIN OF CUSTODY FORM

One form per sample

Registration Number: _____

Sample Number: _____

Collection Date: _____

Approximate Area: (AC or Square Feet) _____

Sample Weight (Lab only): _____

Grower Name: Print Name _____

Grower Signature: _____

Grower Name: _____

Mailing Address: _____

Crop Address: _____

Grower Phone: _____

Date: _____

Variety Sampled:		Development Stage: Not flowering/Flowering/ Seed head Grown for: Fiber or Grain or Floral
Sample Location GPS Coordinates	From Permit:	
	From Inspection:	
Additional Comments:		

Sample Collected By:

Print Name: _____

Sampling Agent
Signature: _____

SUBMITTER DESCRIPTION
Include the number of containers and a physical description of each sample submitted for testing
Example: 1 paper bag with 4 tips

LABORATORY CHAIN OF CUSTODY FORM

Chain of Custody: Persons relinquishing and receiving evidence must provide their signature, organization, and date/time to document evidence transfers. Submitter, start with box number 1.

Relinquished By (Submitter)	Organization	Date/Time	Received by	Organization	Date/Time
Signature:			Signature:		
Print Name:			Print Name:		
			Sealed: [] Yes [] No		

Relinquished By (Submitter)	Organization	Date/Time	Received by	Organization	Date/Time
Signature:			Signature:		
Print Name:			Print Name:		
			Sealed: [] Yes [] No		

Relinquished By (Submitter)	Organization	Date/Time	Received by	Organization	Date/Time
Signature:			Signature:		
Print Name:			Print Name:		
			Sealed: [] Yes [] No		

Relinquished By (Submitter)	Organization	Date/Time	Received by	Organization	Date/Time
Signature:			Signature:		
Print Name:			Print Name:		
			Sealed: [] Yes [] No		

Relinquished By (Submitter)	Organization	Date/Time	Received by	Organization	Date/Time
Signature:			Signature:		
Print Name:			Print Name:		
			Sealed: [] Yes [] No		

LABORATORY USE ONLY

Laboratory Description of Sample	
Include the number of containers, identification number(s) and a physical description of each sample submitted for testing	
Signature:	Date:

Evidence Disposal		
To be completed by Laboratory Evidence Custodian		
Disposition Site:	Disposition No:	Method of Disposition:
Performed By:		Date:
Witnessed By:		Date: