

## VDACS Announces USDA to Administer Hemp Program in Virginia

Erin Williams of the Virginia Department of Agriculture and Consumer Services sent a **letter** to registered hemp growers announcing that USDA will be administering the Virginia Hemp Program as of October 31, 2020. The shift is due to program costs in light of the COVID-19 pandemic. The letter contains a list of answers to frequently asked questions including how to register with USDA, when to renew and apply for a USDA hemp license, sampling and testing procedures and where to ask questions of USDA throughout the process.

Producers will need to **apply** for a USDA **license** by October 31, 2020 for the 2021 growing year. USDA licenses last for a period of 3 years and to apply, producers will need an FBI **criminal history report**. Producers with questions on the **process** not contained in the VDACS letter should contact USDA at [farbill.hemp@usda.gov](mailto:farbill.hemp@usda.gov).

Please feel free to contact the Council should you have **questions** or concerns on the process moving forward.



# COMMONWEALTH of VIRGINIA

*Jewel H. Brumbaugh, Ph.D.*

## Department of Agriculture and Consumer Services

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September 2, 2020

Registered Industrial Hemp Growers,

I write today with an update regarding the Virginia Department of Agriculture and Consumer Services' (VDACS) response to the U.S. Department of Agriculture's (USDA) Interim Final Rule for its Domestic Hemp Production Program ("USDA's Hemp Production Rule"). As you may know, in January 2020, VDACS submitted Virginia's proposed Plan to Regulate Hemp Production to USDA. In February 2020, USDA provided VDACS with feedback on the proposed plan and asked that VDACS revise and resubmit the plan.

In light of the economic impact of the COVID-19 pandemic on the Commonwealth and the significant cost to administer a hemp production regulatory program that complies with federal law and regulation, VDACS will not be resubmitting a hemp production regulatory plan to USDA. After October 31, 2020, USDA will be responsible for administering a hemp production regulatory program in Virginia that complies with the 2018 federal Farm Bill and USDA's Hemp Production Rule.

Below I hope you will find answers to the questions you may have. If not, please feel free to contact me.

### **What does this mean for my 2020 hemp crop?**

Until October 31, 2020, VDACS will be the primary regulator of hemp production in Virginia. VDACS will use a risk-based system to select hemp production fields for sampling. If your production field is selected, a VDACS inspector will contact you by the end of September 2020.

Any hemp crop that has not been harvested by October 31, 2020, must be sampled and tested in accordance with USDA's Hemp Production Rule. More information regarding the sampling required under USDA's Hemp Production Rule can be found below.

### **Do I need to get a hemp producer license from USDA?**

In order to comply with federal law and regulations, you will need to obtain a hemp producer license from USDA, if you plan to grow hemp or harvest your 2020 hemp crop after October 31, 2020.

In order to comply with Virginia law and obtain an affirmative defense against a marijuana-related criminal charge, you will need to maintain VDACS Industrial Hemp Grower Registration.

VDACS recognizes that this dual license and registration requirement is not ideal, and VDACS is working on a solution to enable a grower with a USDA Hemp License to have an affirmative defense against a marijuana-related criminal charge without obtaining a VDACS Industrial Hemp Grower Registration. VDACS will alert you to any changes as soon as possible.

### **How do I get a hemp producer license from USDA?**

You should apply now to obtain a hemp producer license from USDA. USDA accepts applications between **August 1 and October 31**. USDA will begin issuing licenses to Virginia hemp growers on November 1, 2020.

Again, in order to comply with federal law and regulations, you will need to obtain a hemp producer license from USDA, if you plan to grow hemp or harvest your 2020 hemp crop after October 31, 2020.

To apply, you will need to first obtain an FBI criminal history report. This link will direct you to instructions on how to get this report: <https://www.fbi.gov/services/cjis/identity-history-summary-checks>

USDA's Hemp License Application is available here:

[https://www.ams.usda.gov/sites/default/files/media/USDAHempLicenseApplicationAMS\\_26.pdf](https://www.ams.usda.gov/sites/default/files/media/USDAHempLicenseApplicationAMS_26.pdf)

There is no application fee. You can email your completed application to [farbill.hemp@usda.gov](mailto:farbill.hemp@usda.gov).

A USDA Hemp License must be renewed every three years.

### **I have questions about USDA's hemp licensing process. Who do I contact?**

[USDA's Agricultural Marketing Service administers the federal hemp licensing program](#). You can contact this program via email at [farbill.hemp@usda.gov](mailto:farbill.hemp@usda.gov).

### **Is my Industrial Hemp Grower Registration still good? Do I need to renew my Industrial Hemp Grower Registration?**

Your VDACS Industrial Hemp Grower Registration is valid until the expiration date stated on the registration.

To comply with Virginia law and obtain an affirmative defense against a marijuana-related criminal charge, you need a VDACS Industrial Hemp Grower Registration. VDACS is working on a solution to enable a grower with a USDA Hemp License to have an affirmative defense against a marijuana-related criminal charge without obtaining a VDACS Industrial Hemp Grower Registration. VDACS will alert you to any changes as soon as possible.

### **What do I need to do once I get a USDA Hemp License?**

#### **Report to FSA**

After you receive a USDA Hemp License, you will need to report your hemp crop acreage to USDA's Farm Service Agency (FSA). You can find your local FSA office here:

<https://offices.sc.egov.usda.gov/locator/app?state=va&agency=fsa>.

When you visit your local FSA office to report your hemp crop acreage, you should take (i) a copy of your license, (ii) photo identification, and (iii) a copy of your lease or deed for the land on which you are growing hemp.

You can find your local FSA office here:

<https://offices.sc.egov.usda.gov/locator/app?state=va&agency=fsa>.

#### Annual Report

Each USDA-licensed hemp producer must submit an annual report using this form:

[https://www.ams.usda.gov/sites/default/files/media/USDAHempProducerAnnualReportAMS\\_28.pdf](https://www.ams.usda.gov/sites/default/files/media/USDAHempProducerAnnualReportAMS_28.pdf)

This report should be submitted via email to [forms.hemp@usda.gov](mailto:forms.hemp@usda.gov) by December 15 each year.

If you have harvested your 2020 hemp crop by October 31, 2020, you do not need to submit this report in 2020.

#### Sampling and Testing

Any hemp grown on or after November 1, 2020, must be sampled and tested in accordance with USDA's Hemp Production Rule.

A USDA-licensed hemp producer will need to contact a sampling agent who complies with USDA's Hemp Production Rule and request that the agent collect a sample from his or her hemp crop 15 days prior to harvest. The Total THC concentration of this sample must be tested by a testing laboratory that complies with USDA's Hemp Production Rule. The testing laboratory will send you and USDA the results of your sample's THC test.

You can email USDA ([farmbill.hemp@usda.gov](mailto:farmbill.hemp@usda.gov)) to identify a sampling agent in your area.

You can find a list of testing laboratories that comply with USDA's Hemp Production Rule here:

<https://www.ams.usda.gov/rules-regulations/hemp/dea-laboratories>

Hemp growers will be responsible for any costs associated with sampling and testing.

#### Disposal Report

Any USDA-licensed hemp producer who produces cannabis that has tested over the acceptable delta-9 THC must submit the form below no later than 30 days after disposing of noncompliant crop.

[https://www.ams.usda.gov/sites/default/files/media/USDAHempDisposalFormAMS\\_27.pdf](https://www.ams.usda.gov/sites/default/files/media/USDAHempDisposalFormAMS_27.pdf)

#### **Going forward**

USDA plans to accept additional public comments in Fall 2020 before finalizing its regulation regarding hemp production.

VDACS will continue to track the development of USDA's Hemp Production Rule and will evaluate the feasibility of submitting a Virginia hemp production regulatory plan that complies with the provisions in USDA's Final Hemp Production Rule.

VDACS will continue to issue Industrial Hemp Grower, Processor, and Dealer registrations and inspect Registered Industrial Hemp Processors who intend to produce a hemp extract intended for human consumption.

If you have any questions, please let me know. You can reach me via email at [Erin.Williams@vdacs.virginia.gov](mailto:Erin.Williams@vdacs.virginia.gov). You can also reach USDA's Domestic Hemp Production Program at [farmbill.hemp@usda.gov](mailto:farmbill.hemp@usda.gov).

Sincerely,

A handwritten signature in cursive script that reads "Erin Williams".

Erin Williams  
Industrial Hemp Program Manager