



DEPARTMENT of AGRICULTURE
STATE OF MISSOURI
JEFFERSON CITY

MICHAEL L. PARSON
GOVERNOR

*Serving, promoting and protecting the agricultural producers, processors
and consumers of Missouri's food, fuel and fiber products.*

CHRIS CHINN
DIRECTOR

March 25, 2021

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

Dear Mr. Richmond:

The Missouri Department of Agriculture (Department) is requesting to amend the Missouri Industrial Hemp State Plan initially approved on September 2, 2020. The amendment includes revisions reflected in the final rule 7 CFR 990 Domestic Hemp Production Program published on March 22, 2021.

The Department will file emergency and proposed rules once USDA has approved the amendments to the Missouri Industrial Hemp State Plan. Emergency rules will be effective 10 days after filing with the Missouri Secretary of State's office. The Department will utilize enforcement discretion until emergency rules are effective. Drafts of the proposed rule changes are included in this submission.

The following amendments are included:

1. Summary of the State of Missouri Industrial Hemp Plan;
 - a. Pages 3 - 6
2. Emergency rule amendment 2 CSR 70.010 Definitions;
 - a. Pages 12 - 14
3. Proposed rule amendment 2 CSR 70.010 Definitions;
 - a. Pages 15 - 16
4. Emergency rule amendment 2 CSR 70.100 Sampling Requirements and Results of Analysis;
 - a. Pages 21 - 23
5. Proposed rule amendment 2 CSR 70.100 Sampling Requirements and Results of Analysis
 - a. Pages 24 - 26
6. Appendix B - Sampling Protocol
 - a. Pages 31 - 36
7. Appendix C - Guidelines for Testing Laboratories
 - a. Pages 37 - 40
8. Remediation Protocol
 - a. Pages 41 - 43
9. Destruction Protocol
 - a. Pages 44 - 47

Missouri Industrial Hemp State Plan – Amendment

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If you have questions or would like to discuss in detail, contact alan.freeman@mda.mo.gov or (573) 522-0351.

Sincerely,



Chris Chinn

Director

Missouri Department of Agriculture

En: Amended Missouri Industrial Hemp State Plan

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Summary of the State of Missouri Industrial Hemp Plan

Missouri state law, sections 195.740 – 195.773 RSMo., establishes the authority for the Missouri Department of Agriculture (Department) to regulate the production of viable industrial hemp within the state. The Department has rulemaking authority granted under 195.773 RSMo. Missouri industrial hemp rules are published in the Code of State Regulations (CSR) chapter 2 CSR 70-17. The plan meets requirements established in the 2018 Agriculture Improvement Act and Federal regulations published on March 22, 2021, in 7 CFR 990.

The 2018 Agricultural Improvement Act requires each plan to include the following:

1. Plan to maintain relevant producer and land information.
 - i. Missouri Law 195.746 RSMo and Missouri Regulations 2 CSR 70-17.020 and 2 CSR 70-17.030 require submission of land information and applicant information, including completing a State and Federal Fingerprint Background Check prior to issuing a Producer Registration (registration). The Department does not currently collect Employer Identification Numbers (EIN), however the Department will plan to start collecting and reporting this information in 2022. The registration and permit are valid for three (3) years with continued compliance. After the three (3) year period, registered producers or permit holders must apply for a new registration or permit.
 - ii. Documentation links:
 - [195.740 RSMo. Definitions](#)
 - [195.746 RSMo. Registration and permits, requirements — application, contents — issuance, when.](#)
 - [2 CSR 70-17.010](#) Definitions
 - [2 CSR 70-17.020](#) Registration and Permit Application Requirements
 - [2 CSR 70-17.030](#) State and Federal Fingerprint Criminal History Background Check Requirements
 - Application materials available at; <https://agriculture.mo.gov/plants/industrial-hemp/applications.php>
2. Plan for accurate and effective sample testing using post decarboxylation or similar reliable methods.
 - i. Registered producers must use a Certified Industrial Hemp Sampler to pull compliance samples within thirty (30) days prior to harvest. Persons interested in becoming a Certified Industrial Hemp Sampler must meet the requirements established in 2 CSR 70-17.100, complete a training course, and pass a written exam. Once certified, the Certified Industrial Hemp Sampler must conduct compliance sampling in accordance with the Department’s Sampling Protocol, available online, and maintain documentation of sampling activities. Compliance samples must be delivered or shipped to a testing laboratory that is ISO 17025 accredited and by December 31, 2022 is registered with the United States Drug Enforcement Agency (DEA).
 - ii. Documentation links:
 - [2 CSR 70-17.010 Definitions](#)
 - [2 CSR 70-17.100 Sampling Requirements and Results of Analysis](#)

- Appendix B - [Sampling Protocol](https://agriculture.mo.gov/plants/industrial-hemp/sampling-protocol.pdf) and available at; <https://agriculture.mo.gov/plants/industrial-hemp/sampling-protocol.pdf>
 - Appendix C – [Guidelines for Testing Laboratories](https://agriculture.mo.gov/plants/industrial-hemp/laboratory-) and will be available at; <https://agriculture.mo.gov/plants/industrial-hemp/laboratory->
3. Plan for disposal procedures.
- i. Non-compliant industrial hemp must be disposed of in accordance with 195.758 RSMo and 2 CSR 70-17.100. Disposal must follow the Department’s Destruction protocol. The Department will provide reporting to USDA, Agricultural Marketing Service (AMS), or Farm Service Agency (FSA) in accordance with 7 CFR 990 and may include; State and Tribal Hemp Producer Report (AMS-23), State and Tribal Hemp Disposal and Remediation Report (AMS-24), State and Tribal Hemp Annual Report (AMS-25). Reporting to be provided on the first business day of the month.
 - ii. Documentation links:
 - [195.758 RSMo](#)
 - [2 CSR 70-17.010](#) Definitions
 - [2 CSR 70-17.100](#) Sampling Requirements and Results of Analysis
 - Appendix E - [Destruction Protocol](#) and will be available at; <https://agriculture.mo.gov/plants/industrial-hemp/destruction-protocol.pdf>
4. Plan for remediation procedures.
- i. Procedures for remediation of non-compliant industrial hemp are outlined in both emergency and proposed rules for 2 CSR 70-17.010 and 2 CSR 70-17.100 and in the Department’s Remediation protocol located in Appendix D.
 - ii. Documentation links:
 - [2 CSR 70-17.010](#) Definitions
 - [2 CSR 70-17.100](#) Sampling Requirements and Results of Analysis
 - Appendix D - [Remediation Protocol](#)
5. Plan for inspection procedures
- i. The Department will conduct random annual audits and inspections of registered and permitted operations in accordance with 195.758 RSMo. Registered and permitted operations must maintain documentation required for the Industrial Hemp Plant Monitoring System identified in 195.758 RSMo and 2 CSR 70-17.110. They must also provide access to Department staff and law enforcement for conducting inspections and audits according to 2 CSR 70-17.080.
 - ii. Documentation links:
 - [195.758 RSMo](#).
 - [2 CSR 70-17.080](#) Site Access for Missouri Department of Agriculture (MDA) and Law Enforcement Inspection
 - [2 CSR 70-17.110](#) Industrial Hemp Plant Monitoring System Requirements
6. Plan for collection of information

- i. The Department will provide reporting to USDA, Agricultural Marketing Service (AMS), or Farm Service Agency (FSA) in accordance with 7 CFR 990 and may include; State and Tribal Hemp Producer Report (AMS-23), State and Tribal Hemp Disposal or Remediation Report (AMS-24), State and Tribal Hemp Annual Report (AMS-25). Reporting to be provided on the first business day of each month. The Department requires producers to submit planting reports to FSA directly per 2 CSR 70-17.060 and submit annual reports for amount of industrial hemp planted, harvested, or disposed of to the Department in preparation of the annual State report.
- ii. Documentation links:
 - [195.746 RSMo.](#)
 - [2 CSR 70-17.020 Registration and Permit Application Requirements](#)
 - [2 CSR 70-17.030 State and Federal Fingerprint Criminal History Background Check Requirements](#)
 - [2 CSR 70-17.110 Industrial Hemp Plant Monitoring System Requirements](#)
 - Application materials available at; <https://agriculture.mo.gov/plants/industrial-hemp/applications.php>
 - Appendix F - [FSA Guidance](#) and available at; <https://agriculture.mo.gov/plants/industrial-hemp/fsa-guidance.pdf>

7. Plan to comply with enforcement procedures

- i. The Department’s enforcement procedures will comply with 7 CFR 990 and follow Missouri statutes 195.749, 195.752 RSMo, and 2 CSR 70-17.120 when providing corrective action for negligent violations. Examples of violations that qualify as negligent include failure to provide legal description of land, failure to obtain a license, or producing cannabis with THC exceeding 1.0% total THC or the negligence threshold defined by USDA, whichever is greater.
 - a. If the department determines that a negligent violation has occurred, procedures to provide for the correction action will comply with 195.749 and 195.752 RSMo.. Actions include establishing a date to correct the violation and additional reporting requirements for two (2) years from the date of violation.
 - b. Violations may not be subject to federal, state, tribal, or local government criminal enforcement action.
 - c. A producer who receives a negligent violation 3 times within a 5-year period is ineligible to produce hemp for a period of 5 years from the date of the 3rd violation.
 - d. The department may conduct inspections to determine if a corrective action plan has been implemented.
- ii. Applicants will be reviewed for eligibility based on requirements established in 195.749, 195.752 RSMo. and 2 CSR 70-17.020 An exception applies to a person who was lawfully growing hemp under the 2014 Farm Bill before December 20, 2018, and whose conviction also occurred before that date.
- iii. If producer violations are determined to be a result of culpable mental state greater than negligence, the Department may notify the Missouri Attorney General and U.S. Attorney General.

- iv. Documentation links:
 - o [195.749 RSMo.](#)
 - o [195.752 RSMo.](#)
 - o [2 CSR 70-17.020 Registration and Permit Application Requirements](#)
 - o [2 CSR 70-17.120 Revocation of Registration or Permit](#)

- 8. Certification that the state or Indian tribe (whichever applicable) has the resources and personnel to carry out required Farm Bill practices and procedures.
 - i. Documentation links:
 - o [195.764 RSMo](#)
 - o [2 CSR 70-17.070 Industrial Hemp Program Fees](#)

Missouri Revised Statutes

195.740 Definitions. — For the purposes of sections 195.740 to 195.773, the following terms shall mean:

- (1) **“Agricultural hemp propagule”**, any viable nonseed plant material used to cultivate industrial hemp including, but not limited to, transplants, cuttings, and clones;
- (2) **“Agricultural hemp seed”**, *Cannabis sativa L.* seed that meets any labeling, quality, or other standards set by the department of agriculture and that is intended for sale, is sold to, or is purchased by registered producers for planting;
- (3) **“Crop”**, industrial hemp grown under a single registration;
- (4) **“Department”**, the Missouri department of agriculture;
- (5) **“Indoor cultivation facility”**, any greenhouse or enclosed building or structure capable of continuous cultivation throughout the year that is not a residential building;
- (6) **“Industrial hemp plant monitoring system”**, a reporting system that includes, but is not limited to, testing, transfer reports, and data collection maintained by a producer or agricultural hemp propagule and seed permit holder and available to the department for purposes of monitoring viable industrial hemp cultivated as an agricultural product from planting to final sale or transfer as a publicly marketable hemp product;
- (7) **“Nonviable”**, plant material or agricultural hemp seed that is not capable of living or growing;
- (8) **“Produce”**, the cultivation and harvest of viable industrial hemp;
- (9) **“Producer”**, a person who is a Missouri resident, or an entity that is domiciled in this state, who grows or produces viable industrial hemp;
- (10) **“Publicly marketable product”**, any nonviable hemp material, including seed, stem, root, leaf, or floral material, that contains no material with a delta-9 tetrahydrocannabinol concentration exceeding three-tenths of one percent on a dry weight basis.

(L. 2018 H.B. 2034, A.L. 2019 S.B. 133)

195.743. Viable industrial hemp is an agricultural product subject to regulation by department. — Viable industrial hemp shall be an agricultural product that is subject to regulation by the department, including compliance with an industrial hemp plant monitoring system.

(L. 2018 H.B. 2034, A.L. 2019 S.B. 133)

195.746. Registration and permits, requirements — application, contents — issuance, when. — 1. Any producer of industrial hemp shall obtain a registration from the department. Any producer of agricultural hemp shall ensure that all agricultural hemp propagules and agricultural hemp seed comply with any standards established by the department.

2. Any person who sells, distributes, or offers for sale any agricultural hemp propagule or agricultural hemp seed in the state shall obtain an agricultural hemp propagule and seed permit from the department. An agricultural hemp propagule and seed permit shall authorize a permit holder to sell, distribute, or offer for sale agricultural hemp propagules or agricultural hemp seed to registered producers

or other permit holders. A permit holder is exempt from requirements in chapter 266 if he or she only sells, distributes, or offers for sale agricultural hemp propagules or agricultural hemp seed.

3. An application for an industrial hemp registration or agricultural hemp propagule and seed permit shall include:

- (1) The name and address of the applicant;
- (2) The name and address of the industrial hemp or agricultural hemp propagule or seed operation;
- (3) For any industrial hemp registration, the global positioning system coordinates and legal description for the property used for the industrial hemp operation;
- (4) The application fee, as determined by the department, in an amount sufficient to cover the administration, regulation, and enforcement costs associated with sections 195.740 to 195.773; and
- (5) Any other information the department deems necessary.

4. The department shall issue a registration under this section to an applicant who meets the requirements of this section and section 195.749 and who satisfactorily completes a state and federal fingerprint criminal history background check under section 43.543. The department may charge an applicant an additional fee for the cost of the fingerprint criminal history background check in addition to the registration fee. If required by federal law, the department shall require an applicant for an agricultural hemp propagule and seed permit to comply with the fingerprint criminal history background check requirements of this subsection.

5. Upon issuance of a registration or permit, information regarding all producers and permit holders shall be forwarded to the Missouri state highway patrol.

6. An industrial hemp registration or agricultural hemp propagule and seed permit is:

- (1) Nontransferable, except such registration or permit may be transferred to a person who otherwise meets the requirements of a registrant or permit holder, and the person may operate under the existing registration or permit until the registration or permit expires, at which time the renewal shall reflect the change of the registrant or permit holder;
- (2) Valid for a three-year term unless revoked by the department; and
- (3) Renewable as determined by the department, if the registrant or permit holder is found to be in good standing.

7. Each individual parcel of ground or indoor cultivation facility with a separate legal description shall be required to obtain a separate registration unless the parcels are contiguous and owned by the same person of record.

(L. 2018 H.B. 2034, A.L. 2019 S.B. 133)

[195.749. Registration and permit, revocation, refusal to issue, refusal to renew, when — penalty, amount.](#) — 1. The department may revoke, refuse to issue, or refuse to renew an industrial hemp registration or agricultural hemp propagule and seed permit and may impose a civil penalty of not less than five hundred dollars or more than fifty thousand dollars for violation of:

- (1) A registration or permit requirement, term, or condition;
- (2) Department rules relating to the production of industrial hemp or an agricultural hemp propagule and seed permit;
- (3) Any industrial hemp plant monitoring system requirement; or

(4) A final order of the department that is specifically directed to the producer or permit holder's industrial hemp operations or activities.

2. A registration or permit shall not be issued to a person who in the ten years immediately preceding the application date has been found guilty of, or pled guilty to, a felony offense under any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance.

3. The department may revoke, refuse to issue, or refuse to renew an industrial hemp registration or agricultural hemp propagule and seed permit for failing to comply with any provision of this chapter, or for a violation of any department rule relating to agricultural operations or activities other than industrial hemp production.

(L. 2018 H.B. 2034, A.L. 2019 S.B. 133)

195.752. Administrative fine, when, amount. — 1. Any person producing industrial hemp who does not have a valid industrial hemp registration issued under section 195.746 may be subject to an administrative fine of five hundred dollars and may be fined one thousand dollars per day until such person destroys the industrial hemp crop. The Missouri state highway patrol shall certify such destruction to the department.

2. Any person selling, distributing, or offering for sale any agricultural hemp propagule or agricultural hemp seed in the state who does not have a valid agricultural hemp propagule and seed permit issued under section 195.746 may be subject to an administrative fine of five hundred dollars and may be fined one thousand dollars per day until such person obtains a valid permit.

(L. 2018 H.B. 2034, A.L. 2019 S.B. 133)

195.756. Pesticides and agricultural chemicals, use of — limitations on liability. — Notwithstanding sections 281.050 and 281.101 to the contrary, in the production of industrial hemp consistent with sections 195.740 to 195.773, no retailer of pesticides as defined in 7 U.S.C. Section 136, or agricultural chemicals shall be liable for the sale, application, or handling of such products by a producer or applicator in any manner or for any purpose not approved by applicable state and federal agencies. No producer or applicator may use or apply pesticides or agricultural chemicals in the growing or handling of industrial hemp except as approved by state and federal law.

(L. 2018 H.B. 2034, A.L. 2019 S.B. 133)

195.758. Monitoring system, recordkeeping requirements — inspections, when — destruction of crop, when — aerial surveillance — coordination with local law enforcement — nonviable hemp not subject to regulation. — 1. Every producer or permit holder shall be subject to an industrial hemp plant monitoring system and shall keep industrial hemp crop and agricultural hemp propagule and seed records as required by the department. The department may require an inspection or audit during any normal business hours for the purpose of ensuring compliance with:

(1) Any provision of sections 195.740 to 195.773;

- (2) Department rules and regulations;
- (3) Industrial hemp registration or agricultural hemp propagule and seed permit requirements, terms, or conditions;
- (4) Any industrial hemp plant monitoring system requirement; or
- (5) A final department order directed to the producer's* or permit holder's industrial hemp or agricultural hemp propagule and seed operations or activities.

2. In addition to any inspection conducted under subsection 1 of this section, the department may inspect any industrial hemp crop during the crop's growth phase and take a representative sample for field analysis. If a crop contains an average delta-9 tetrahydrocannabinol concentration exceeding three-tenths of one percent or the maximum concentration allowed under federal law, whichever is greater, on a dry weight basis, the department may retest the crop. If the second test indicates that a crop contains an average delta-9 tetrahydrocannabinol concentration exceeding three-tenths of one percent or the maximum concentration allowed under federal law, whichever is greater, on a dry weight basis, the department may order any producer to destroy the crop.

3. If such crop is not destroyed within fifteen days of the producer being notified by the department by certified mail that the crop contains concentrations exceeding those set forth in subsection 2 of this section, and directing the producer to destroy the crop, such producer shall be subject to a fine of five thousand dollars per day until such crop is destroyed. No such penalty or fine shall be imposed prior to the expiration of the fifteen-day notification period.

4. The Missouri state highway patrol may, at its own expense, perform aerial surveillance to ensure illegal industrial hemp plants are not being cultivated on or near legal, registered industrial hemp plantings.

5. The Missouri state highway patrol may coordinate with local law enforcement agencies to certify the destruction of illegal industrial hemp plants.

6. The department shall notify the Missouri state highway patrol and local law enforcement agencies of the need to certify that a crop of industrial hemp deemed illegal through field analysis has been destroyed.

7. Unless required by federal law, the department shall not regulate the sale or transfer of nonviable hemp including, but not limited to, stripped stalks, fiber, dried roots, nonviable leaf material, nonviable floral material, nonviable seeds, seed oils, floral and plant extracts, unadulterated forage, and other marketable agricultural hemp products to members of the general public both within and outside the state.

(L. 2018 H.B. 2034, A.L. 2019 S.B. 133)

195.764. Fees, amount, use of — fund created. — 1. The department may charge producers and permit holders reasonable fees as determined by the department for the purposes of administering sections 195.740 to 195.773. Fees charged for purposes of administering sections 195.740 to 195.773 shall only be used to administer such sections, and shall not provide additional revenue for the department to use to administer any other program or provide staff to the department for any other program. All fees collected under sections 195.740 to 195.773 shall be deposited in the industrial hemp fund created under this section for use by the department to administer sections 195.740 to 195.773.

2. There is hereby created in the state treasury the “Industrial Hemp Fund”, which shall consist of any grants, gifts, donations, bequests, or money collected under sections 195.740 to 195.773. The state

treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and money in the fund shall be used solely by the department of agriculture for the purpose of administering such sections, including reimbursing the Missouri state highway patrol for the enforcement of such sections. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.
(L. 2018 H.B. 2034, A.L. 2019 S.B. 133)

195.773. Department duties — rulemaking authority. — 1. The department of agriculture shall execute its responsibilities relating to the cultivation of industrial hemp in the most cost-efficient manner possible, including in establishing permit and registration fees. For the purpose of testing industrial hemp for pesticides, the department shall explore the option of transporting samples from Missouri to departments of agriculture or testing laboratories in contiguous states, which participate in an agricultural pilot program authorized by the federal Agricultural Act of 2014, or any state program authorized by successor federal law. All transport between states shall be in compliance with the federal Agricultural Act of 2014, or any successor federal law, as well as any other applicable state and federal law.

2. The department shall promulgate rules necessary to administer the provisions of sections 195.740 to 195.773. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2018, shall be invalid and void.
(L. 2018 H.B. 2034)

Missouri Industrial Hemp Rules

**Title 2—DEPARTMENT OF
AGRICULTURE
Division 70—Plant Industries
Chapter 17—Industrial Hemp**

2 CSR 70-17.010 Definitions – Emergency Rules

2 CSR 70-17.010 Definitions The department is amending sections (1), (7), (8), (17), (26), and adding new section (25), and renumbering thereafter.

PURPOSE: This amendment updates the list of definitions for Chapter 17.

EMERGENCY STATEMENT: This emergency rule informs the public of what provisions are necessary for the efficient and effective implementation of the Industrial Hemp Program. The Department believes this emergency rule is necessary to serve a compelling governmental interest in order to implement the regulatory framework for industrial hemp production in Missouri. Emergency rules are necessary to issue registrations and permits in preparation for the 2021 growing season. The Missouri Department of Agriculture (MDA) shall promulgate rules for the registration and permitting of persons for the production of industrial hemp. MDA must maintain a list of registered producers and agricultural hemp propagule and seed permit holders that produce, sell, distribute, or offer for sale viable industrial hemp. MDA must provide the list of registered producers and permit holders to the Missouri State Highway Patrol for verification of legal production of industrial hemp. MDA rulemaking authority also allows for the inspection and sampling of any hemp crop to determine if a crop contains a legally allowable tetrahydrocannabinol (THC) concentration in accordance with the federal Controlled Substances Act under 21 U.S.C. Section 801 et. seq. MDA must also promulgate rules for: application requirements for registration and permitting; industrial hemp plant monitoring systems; testing requirements to ensure that the hemp does not exceed the legal limit of delta-9 THC; and registration and permit revocation, refusal protocols, and civil penalties for violations of these provisions. The program currently licenses 386 three-hundred eighty-six person registered for production of, permitted for sales of viable, or certified for the sampling of industrial hemp. No person may legally possess viable industrial hemp under the authorizing statute without first obtaining a producer registration or agricultural hemp propagule and seed permit in Missouri. As a result, MDA finds a compelling governmental interest which requires this emergency rulemaking. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitution. MDA believes this emergency rule is fair to all interested parties under the circumstances.

PURPOSE: This rule lists definitions for Chapter 17. The terms defined in sections 195.010 and 195.740, RSMo, in addition to other relative terms pertaining to the industrial hemp program will be applied for use in 2 CSR 70-17.010 to 2 CSR 70-17.130.

(1) Acceptable industrial hemp THC level (acceptable THC level)—when the application of the measurement of uncertainty to the reported delta-9 THC (**also referred to as ‘Total THC’ or ‘Total Potential THC’**) content concentration level on a dry weight basis produces a distribution range that includes three-tenths of one percent (0.3%) or less. *[Any certificate of analysis that does not include a measurement of uncertainty, the measurement of uncertainty is deemed zero percent (0.00%).]*

- (2) Agent—any family member, employee, contracted employee, or farmhand of a registered producer or permit holder.
- (3) Agricultural hemp propagule (propagule)—as defined in subdivision 1 of section 195.740, RSMo.
- (4) Agricultural hemp propagule and seed permit (permit)—permit issued by the Missouri Department of Agriculture to persons authorized to sell, distribute, or offer for sale any viable industrial hemp propagules or viable seeds.
- (5) Agricultural hemp seed (seed)—as defined in subdivision 2 of section 195.740, RSMo.
- (6) Applicant—a natural person authorized to sign for a person, who submits an application for a producer registration or an agricultural hemp propagule and seed permit so that they may produce, sell, distribute, or offer for sale any viable industrial hemp.
- (7) Certificate of analysis—a certificate from a testing laboratory describing the results of the laboratory’s testing of a sample. **Any certificate of analysis that does not include a measurement of uncertainty, the measurement of uncertainty is deemed zero percent (0.00%).**
- (8) Certified industrial hemp sampler (certified sampler)—a **natural** person that meets the requirements established by the department for conducting [*field*] **compliance** sampling of industrial hemp.
- (9) Delta-9 tetrahydrocannabinol (THC)—delta-9 tetrahydrocannabinol measured using postdecarboxylation or other similarly reliable methods approved by the United States Department of Agriculture (USDA).
- (10) Department—the Missouri Department of Agriculture.
- (11) Destruction (disposal)—rendered unusable by burning, incorporating with other materials, or other manner approved by the department.
- (12) Farm Service Agency (FSA)—an agency of the USDA
- (13) Harvest—the termination of the cultivation of viable industrial hemp, or the collection of viable seed.
- (14) Indoor cultivation facility—any greenhouse or enclosed building or structure capable of continuous cultivation throughout the year that is not a residential building, a vehicle, or designed for use as a dwelling.
- (15) Industrial hemp—as defined in subdivision 24 of section 195.010, RSMo.
- (16) Key participant—a sole proprietor, a partner in partnership, or a person with executive managerial control in a corporation. A person with executive managerial control such as a chief executive officer, chief operating officer, or chief financial officer. This definition does not include non-executive managers such as farm, field, or shift managers.
- (17) Lot—a group of plants of the same cannabis variety or strain in a contiguous area in a field, greenhouse, or indoor [*growing structure*] **cultivation facility**.
- (18) Measurement of Uncertainty (MU)—the parameter, associated with the result of a measurement, that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to measurement.
- (19) Parcel—land with a separate legal description on which an applicant, registered producer, or permit holder plans to or produces, sells, distributes, or offers for sale any viable industrial hemp.
- (20) Permit holder—any person who holds a valid Agricultural Hemp Propagule and Seed Permit.
- (21) Person—includes, but is not limited to, a natural person, sole proprietorship, partnership, limited liability corporation, limited liability partnership, company, association, government agency, governmental subdivision, business, cooperative, joint venture, or non-profit organization.
- (22) Producer registration (registration)—registration issued by the department to persons authorized to produce viable industrial hemp.

(23) Publicly marketable product—any industrial hemp product that does not include any living hemp plants, viable seeds, viable roots, viable leaf materials, or viable floral materials, and contains no material with a delta-9 THC concentration exceeding three-tenths of one percent (0.3%) on a dry weight basis.

(24) Registered producer—any person who holds a valid producer registration for the production of industrial hemp.

(25) Remediation – the process of rendering non-compliant hemp compliant in accordance with the MDA Remediation Protocol.

[(25)](26) Testing laboratory—a laboratory—

(A) Is registered with the Drug Enforcement Agency (DEA) or other requirements established by the United States Department of Agriculture **by December 31, 2022**; [or] **and**

(B) Is accredited [or has begun the process of accreditation] as a testing laboratory to International Organization for Standardization (ISO/IEC) 17025 by a third-party accrediting body such as the American Association for Laboratory Accreditation (A2LA), ANSI-ASQ National Accreditation Board (ANAB), or American Society of Crime Laboratory Directors (ASCLD). [The laboratory must be accredited and also have the cannabis testing they perform on their scope of accreditation by December 31, 2023.]

[(26)](27) Viable industrial hemp—plant material capable of living or growing, including agricultural hemp seeds and agricultural hemp propagules.

*AUTHORITY: section 195.773, RSMo Supp. 2019. * Original rule filed Nov. 20, 2018, effective July 30, 2019. Emergency amendment filed Dec. 17, 2019, effective Jan. 2, 2020, terminated May 30, 2020.*

Amended: Filed Sept. 30, 2019, effective May 30, 2020.

**Original authority: 195.773, RSMo 2018.*

2 CSR 70-17.010 Definitions – Proposed Rules

2 CSR 70-17.010 Definitions The department is amending sections (1), (7), (8), (17), (26), and adding new section (25), and renumbering thereafter.

PURPOSE: This amendment updates the list of definitions for Chapter 17.

PURPOSE: This rule lists definitions for Chapter 17. The terms defined in sections 195.010 and 195.740, RSMo, in addition to other relative terms pertaining to the industrial hemp program will be applied for use in 2 CSR 70-17.010 to 2 CSR 70-17.130.

- (1) Acceptable industrial hemp THC level (acceptable THC level)—when the application of the measurement of uncertainty to the reported delta-9 THC (**also referred to as ‘Total THC’ or ‘Total Potential THC’**) content concentration level on a dry weight basis produces a distribution range that includes three-tenths of one percent (0.3%) or less. *[Any certificate of analysis that does not include a measurement of uncertainty, the measurement of uncertainty is deemed zero percent (0.00%).]*
- (2) Agent—any family member, employee, contracted employee, or farmhand of a registered producer or permit holder.
- (3) Agricultural hemp propagule (propagule)—as defined in subdivision 1 of section 195.740, RSMo.
- (4) Agricultural hemp propagule and seed permit (permit)—permit issued by the Missouri Department of Agriculture to persons authorized to sell, distribute, or offer for sale any viable industrial hemp propagules or viable seeds.
- (5) Agricultural hemp seed (seed)—as defined in subdivision 2 of section 195.740, RSMo.
- (6) Applicant—a natural person authorized to sign for a person, who submits an application for a producer registration or an agricultural hemp propagule and seed permit so that they may produce, sell, distribute, or offer for sale any viable industrial hemp.
- (7) Certificate of analysis—a certificate from a testing laboratory describing the results of the laboratory’s testing of a sample. **Any certificate of analysis that does not include a measurement of uncertainty, the measurement of uncertainty is deemed zero percent (0.00%).**
- (8) Certified industrial hemp sampler (certified sampler)—a **natural** person that meets the requirements established by the department for conducting *[field]* **compliance** sampling of industrial hemp.
- (9) Delta-9 tetrahydrocannabinol (THC)—delta-9 tetrahydrocannabinol measured using postdecarboxylation or other similarly reliable methods approved by the United States Department of Agriculture (USDA).
- (10) Department—the Missouri Department of Agriculture.
- (11) Destruction (disposal)—rendered unusable by burning, incorporating with other materials, or other manner approved by the department.
- (12) Farm Service Agency (FSA)—an agency of the USDA
- (13) Harvest—the termination of the cultivation of viable industrial hemp, or the collection of viable seed.
- (14) Indoor cultivation facility—any greenhouse or enclosed building or structure capable of continuous cultivation throughout the year that is not a residential building, a vehicle, or designed for use as a dwelling.
- (15) Industrial hemp—as defined in subdivision 24 of section 195.010, RSMo.
- (16) Key participant—a sole proprietor, a partner in partnership, or a person with executive managerial control in a corporation. A person with executive managerial control such as a chief executive officer, chief operating officer, or chief financial officer. This definition does not include non-executive managers such as farm, field, or shift managers.

(17) Lot—a group of plants of the same cannabis variety or strain in a contiguous area in a field, greenhouse, or indoor *[growing structure]* **cultivation facility**.

(18) Measurement of Uncertainty (MU)—the parameter, associated with the result of a measurement, that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to measurement.

(19) Parcel—land with a separate legal description on which an applicant, registered producer, or permit holder plans to or produces, sells, distributes, or offers for sale any viable industrial hemp.

(20) Permit holder—any person who holds a valid Agricultural Hemp Propagule and Seed Permit.

(21) Person—includes, but is not limited to, a natural person, sole proprietorship, partnership, limited liability corporation, limited liability partnership, company, association, government agency, governmental subdivision, business, cooperative, joint venture, or non-profit organization.

(22) Producer registration (registration)—registration issued by the department to persons authorized to produce viable industrial hemp.

(23) Publicly marketable product—any industrial hemp product that does not include any living hemp plants, viable seeds, viable roots, viable leaf materials, or viable floral materials, and contains no material with a delta-9 THC concentration exceeding three-tenths of one percent (0.3%) on a dry weight basis.

(24) Registered producer—any person who holds a valid producer registration for the production of industrial hemp.

(25) Remediation – the process of rendering non-compliant hemp compliant in accordance with the MDA Remediation Protocol.

*[(25)]***(26)** Testing laboratory—a laboratory—

(A) Is registered with the Drug Enforcement Agency (DEA) or other requirements established by the United States Department of Agriculture **by December 31, 2022; [or] and**

(B) Is accredited *[or has begun the process of accreditation]* as a testing laboratory to International Organization for Standardization (ISO/IEC) 17025 by a third-party accrediting body such as the American Association for Laboratory Accreditation (A2LA), ANSI-ASQ National Accreditation Board (ANAB), or American Society of Crime Laboratory Directors (ASCLD). *[The laboratory must be accredited and also have the cannabis testing they perform on their scope of accreditation by December 31, 2023.]*

*[(26)]***(27)** Viable industrial hemp—plant material capable of living or growing, including agricultural hemp seeds and agricultural hemp propagules.

AUTHORITY: section 195.773, RSMo Supp. 2019. Original rule filed Nov. 20, 2018, effective July 30, 2019. Emergency amendment filed Dec. 17, 2019, effective Jan. 2, 2020, terminated May 30, 2020.*

Amended: Filed Sept. 30, 2019, effective May 30, 2020.

**Original authority: 195.773, RSMo 2018.*

2 CSR 70-17.020 Registration and Permit Application Requirements

PURPOSE: This rule explains the requirements for producer registrations and agricultural hemp propagule and seed permits.

(1) Persons must obtain—

(A) A producer registration in order to produce viable industrial hemp; and

(B) An agricultural hemp propagule and seed permit in order to sell, distribute, or offer for sale any viable industrial hemp.

(2) Each applicant for a producer registration or agricultural hemp propagule and seed permit must complete and submit an application on a form provided by the department.

(3) Persons must apply for a separate registration or permit for each noncontiguous parcel of land where viable industrial hemp will be produced, sold, distributed, or offered for sale.

(4) No application shall include any parcel of land not owned or rented by the person.

(5) The applicant and all key participants applying for the producer registration must meet the requirements of a state and federal fingerprint criminal history background check listed in 2 CSR 70-17.030.

(6) A complete producer registration application must provide the following:

(A) The complete legal name, mailing address, email, and phone number of the applicant and person;

(B) The person's state of residence or domicile;

(C) Type of business entity, if applicable;

(D) Legal description, street address, and Global Positioning System (GPS) coordinates for the parcel(s) of land used for producing industrial hemp; and

(E) A detailed map of the parcel(s) of land on which the person plans to produce industrial hemp, which includes the following information:

1. The boundaries, dimensions, and GPS coordinates of the parcel;

2. Planned number of acres and/or square footage for production of industrial hemp; and

3. Location of buildings or facilities where viable industrial hemp may be held.

(7) A complete agricultural hemp propagule and seed permit application must provide the following:

(A) The complete legal name, mailing address, email, and phone number of the applicant and person;

(B) The person's state of residence or domicile;

(C) Type of business entity, if applicable;

(D) Legal description, street address, and Global Positioning System (GPS) coordinates for the parcel(s) of land used to sell, distribute, or offer for sale viable industrial hemp; and

(E) A detailed map of the parcel(s) of land on which the applicant plans to sell, distribute and/or offer for sale viable industrial hemp, including the location of buildings or facilities.

(8) Each registration or permit application must be submitted along with a nonrefundable fee payable to the Missouri Department of Agriculture as established in 2 CSR 70-17.070.

(9) Applications will not be processed until all required materials are received. Incomplete applications will expire sixty (60) days from the time the department notifies the applicant of missing documentation. If an application expires, the applicant must resubmit all documentation and associated fees.

(10) The department shall notify applicants by letter or email whether the application has been denied or approved.

*AUTHORITY: section 195.773, RSMo Supp. 2019. * Original rule filed Nov. 20, 2018, effective July 30, 2019. Emergency amendment filed Dec. 17, 2019, effective Jan. 2, 2020, terminated May 30, 2020.*

Amended: Filed Sept. 30, 2019, effective May 30, 2020.

**Original authority: 195.773, RSMo 2018.*

2 CSR 70-17.030 State and Federal Fingerprint Criminal History Background Check Requirements

PURPOSE: This rule explains the state and federal fingerprint criminal history background check requirements.

- (1) Each applicant and key participant must complete and pay for a state and federal fingerprint criminal background check within thirty (30) days of submitting an application for a producer registration and renewal of a producer registration.
- (2) All required state and federal fingerprint criminal background checks shall be provided to the department through the Missouri State Highway Patrol automated system.
- (3) Failure to submit all required state and federal fingerprint criminal background checks shall be grounds for denial.

AUTHORITY: section 195.773, RSMo Supp. 2019. Original rule filed Nov. 20, 2018, effective July 30, 2019. Emergency amendment filed Dec. 17, 2019, effective Jan. 2, 2020, terminated May 30, 2020.*

Amended: Filed Sept. 30, 2019, effective May 30, 2020.

**Original authority: 195.773, RSMo 2018.*

2 CSR 70-17.050 General Provisions for Registered Producers and Agricultural Hemp Propagule and Seed Permit Holders

PURPOSE: This rule explains general provisions for registered producers and agricultural hemp propagule and seed permit holders.

- (1) No person shall obtain, possess, produce, distribute, sell, or offer for sale any viable industrial hemp in Missouri, including viable industrial hemp propagules or viable industrial hemp seed, without a valid producer registration or permit.
- (2) Registrations and permits are effective on the date of issuance by the department and shall expire three (3) years from the last day of the month in which the registration or permit was issued. To renew a registration or permit at the end of the three- (3-) year period, registered producers and permit holders are required to satisfy all application requirements including completion of a state and federal fingerprint criminal background check, if applicable.
- (3) Registered producers must also obtain an agricultural hemp propagule and seed permit to sell, distribute, or offer for sale any viable propagules or viable seed.
- (4) Permit holders must also obtain a producer registration to produce propagules or seed or to hold or store propagules for a period of forty-eight (48) hours or more.
- (5) All registered producers and permit holders are subject to inspection, investigation, and sampling to verify compliance with the applicable laws, regulations, and guidelines.
- (6) Any registered producer or permit holder shall destroy, without compensation, in accordance with department protocol:
 - (A) Any industrial hemp located in an area not identified on the application; or
 - (B) Any lot that tests out of compliance in accordance with 2 CSR 70-17.100.
- (7) Persons shall hold the department harmless, release the department from liability, and waive the right to sue the department for any claims arising from matters associated with industrial hemp.

(8) Any registered producer, permit holder, or their agent, shall have the following in their possession when transporting viable industrial hemp within the state or shall include with viable industrial hemp transported by a third-party:

- (A) A copy of their valid producer registration or agricultural hemp propagule and seed permit;
- (B) A certificate of analysis for each lot in transport, if applicable;
- (C) A bill of lading, if applicable; or
- (D) A chain of custody form, if applicable.

(9) Third-party commercial transportation of viable industrial hemp is exempt from registration and permit requirements.

(10) Registered producers shall report hemp crop acreage to the Farm Service Agency annually.

*AUTHORITY: section 195.773, RSMo Supp. 2019. * Original rule filed Nov. 20, 2018, effective July 30, 2019. Emergency amendment filed Dec. 17, 2019, effective Jan. 2, 2020, terminated May 30, 2020.*

Amended: Filed Sept. 30, 2019, effective May 30, 2020.

**Original authority: 195.773, RSMo 2018.*

2 CSR 70-17.070 Industrial Hemp Program Fees

PURPOSE: This rule explains registration, permit, and other related fees.

(1) The applicant, registered producer, or permit holder must pay all fees as established in applicable laws and regulations. All fees are nonrefundable.

(2) Applicants must submit a seven hundred fifty dollar (\$750) fee with each registration or permit application.

(3) Registered producers and permit holders must pay an annual fee of seven hundred fifty dollars (\$750) for the second and third year of registration. Annual fees are due by the end of the month of the anniversary date of the initial approval.

(4) If fees are not paid by the due date, a late fee of twenty-five percent (25%) may be assessed for fees that are up to thirty (30) days past due. A late fee of fifty percent (50%) may be assessed for fees thirty-one (31) to sixty (60) days past due. Fees not paid within sixty (60) days of the due date will result in revocation of the producer registration or permit.

(5) The department may invoice registered producers and permit holders for all applicable destruction certification expenses. Such fees will be commensurate with the Missouri State Highway Patrol or local law enforcement agencies' costs for certifying crop destruction. The destruction certification fee shall be due thirty (30) days after the invoice date.

(6) The department may invoice registered producers and permit holders for all related inspection, investigation, and sampling costs, including mileage charged at the federal mileage rate, and all related laboratory analysis costs.

*AUTHORITY: section 195.773, RSMo Supp. 2019. * Original rule filed Nov. 20, 2018, effective July 30, 2019. Emergency amendment filed Dec. 17, 2019, effective Jan. 2, 2020, terminated May 30, 2020.*

Amended: Filed Sept. 30, 2019, effective May 30, 2020.

**Original authority: 195.773, RSMo 2018.*

2 CSR 70-17.080 Site Access for Missouri Department of Agriculture (MDA) and Law Enforcement Inspection

PURPOSE: This rule explains the site access requirements.

- (1) The department will provide information to the Missouri State Highway Patrol about the registered producer or permit holder's operation as it relates to the production, sale, distribution, or offer for sale of viable industrial hemp at locations as indicated on the application.
- (2) Registered producer or permit holders shall have no reasonable expectation of privacy from the department or law enforcement, with respect to the parcel of land where viable industrial hemp is produced, sold, distributed, or offered for sale.
- (3) A registered producer or permit holder, whether present or not, must allow the department or a representative of any law enforcement agency to enter the parcel of land or structure, with or without cause, where viable industrial hemp is produced, sold, distributed, or offered for sale.

AUTHORITY: section 195.773, RSMo Supp. 2019. Original rule filed Nov. 20, 2018, effective July 30, 2019. Emergency amendment filed Dec. 17, 2019, effective Jan. 2, 2020, terminated May 30, 2020.*

Amended: Filed Sept. 30, 2019, effective May 30, 2020.

**Original authority: 195.773, RSMo 2018.*

2 CSR 70-17.100 Sampling Requirements and Results of Analysis – Emergency Rules

2 CSR 70-17.100 Sampling Requirements and Results of Analysis The department is amending sections (5), (9), (10), (11), (14), and (15).

PURPOSE: This amendment updates reporting information for Certified Samplers, timelines for pre-harvest sampling, submitting compliance certificates of analysis, and close out of orders of destruction.

EMERGENCY STATEMENT: This emergency rule informs the public of what provisions are necessary for the efficient and effective implementation of the Industrial Hemp Program. The Department believes this emergency rule is necessary to serve a compelling governmental interest in order to implement the regulatory framework for industrial hemp production in Missouri. Emergency rules are necessary to issue registrations and permits in preparation for the 2021 growing season. The Missouri Department of Agriculture (MDA) shall promulgate rules for the registration and permitting of persons for the production of industrial hemp. MDA must maintain a list of registered producers and agricultural hemp propagule and seed permit holders that produce, sell, distribute, or offer for sale viable industrial hemp. MDA must provide the list of registered producers and permit holders to the Missouri State Highway Patrol for verification of legal production of industrial hemp. MDA rulemaking authority also allows for the inspection and sampling of any hemp crop to determine if a crop contains a legally allowable tetrahydrocannabinol (THC) concentration in accordance with the federal Controlled Substances Act under 21 U.S.C. Section 801 et. seq. MDA must also promulgate rules for: application requirements for registration and permitting; industrial hemp plant monitoring systems; testing requirements to ensure that the hemp does not exceed the legal limit of delta-9 THC; and registration and permit revocation, refusal protocols, and civil penalties for violations of these provisions. The program currently licenses 386 three-hundred eighty-six person registered for production of, permitted for sales of viable, or certified for the sampling of industrial hemp. No person may legally possess viable industrial hemp under the authorizing statute without first obtaining a producer registration or agricultural hemp propagule and seed permit in Missouri. As a result, MDA finds a compelling governmental interest which requires this emergency rulemaking. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitution. MDA believes this emergency rule is fair to all interested parties under the circumstances.

PURPOSE: This rule explains the sampling requirements and results of analysis for the program.

- (1) All industrial hemp lots produced within a parcel of land must be sampled in accordance with the department’s sampling protocol and tested by a testing laboratory to ensure compliance with applicable laws and regulations.
- (2) All samples used to determine compliance with applicable laws and regulations must be collected by a certified sampler or authorized department personnel. All samples used to determine compliance with applicable laws and regulations must be submitted to a testing laboratory for analysis.
- (3) Requirements for a person to qualify as a certified sampler include:
 - (A) Complete a training course approved by the department;
 - (B) Pass a certification test with a score of no less than eighty percent (80%);
 - (C) Submit a certified industrial hemp sampler application; and
 - (D) Submit a non-refundable application fee of fifty dollars (\$50) to the department at the time of application.

- (4) An industrial hemp sampler certification is valid for a period of three (3) years unless revoked by the department. Certifications can be renewed by completing the requirements set in 2 CSR 70-17.100(3) to qualify as a certified sampler. Certified samplers must pay an annual fee of fifty dollars (\$50) for the second and third year of certification. Annual fees are due by the end of the month of the anniversary date of the initial approval.
- (5) Certified samplers or authorized department personnel shall—
- (A) Adhere to the department sampling protocol for collection and handling of samples; *[and]*
 - (B) Complete and attach a department chain of custody form to each sample*[.]*; **and**
 - (C) **Complete and submit all reporting as required by the Department.**
- (6) No certified sampler shall sample a lot for a registration in—
- (A) His or her name;
 - (B) His or her employer’s name; or
 - (C) Which he or she is a key participant.
- (7) The department may revoke the sampler’s certification if he or she—
- (A) Admits to or has been found by the department to have violated proper procedures established in the department’s hemp sampling protocol;
 - (B) Makes any false statements to the department, Missouri State Highway Patrol or any law enforcement agency with regard to industrial hemp; or
 - (C) Fails to comply with any order from the department or any order regarding industrial hemp from the Missouri State Highway Patrol or any law enforcement agency.
- (8) Sampled plant material from separate lots shall not be commingled.
- (9) Samples must be taken within *[fifteen (15)]* **thirty (30) calendar** days prior to harvest.
- (10) The **harvested materials from the lot *[is a]* are considered** publicly marketable *[product]* **products** if the sample used to determine compliance with applicable laws and regulations meets the definition of acceptable THC level.
- (11) For any **pre-harvest** sample exceeding the acceptable THC level, the registered producer may request *[the laboratory to retest the sample. The registered producer must notify the department and the laboratory of the request in writing.]*;
- (A) **The laboratory retest the original sample;**
 - (B) **To remediate the lot and then resample the lot per the Sampling Protocol to determine compliance; or**
 - (C) **To proceed with an Order of Destruction for the lot.**
- (12) If a retest is not requested or the retest exceeds the acceptable THC level, the department will issue an order of destruction to the producer.
- (13) Registered producers must maintain a copy of each certificate of analysis as part of the Industrial Hemp Plant Monitoring System for a period of three (3) years from the date of analysis.
- (14) Registered producers must submit certificates of analysis for all samples used to determine compliance with applicable laws and regulations to the department **within seven (7) calendar days of receipt.**
- [(A) Registered producers must submit to the department, within three (3) business days of receipt, copies of any certificate of analysis that show the tested sample measured above the acceptable THC level as evidence that the lot does not comply with applicable laws and regulations.*
 - [(B) Registered producers must submit to the department, within thirty (30) business days of receipt, copies of any certificate of analysis that show the tested sample measured within the acceptable THC level as evidence that the lot does comply with applicable laws and regulations.]*

(15) The department may issue to the registered producer or permit holder an order of destruction for any lot testing out of compliance. Destruction must be completed by the registered producer or permit holder within fifteen (15) **calendar** days of receipt of the department's order of destruction. The Missouri State Highway Patrol or local law enforcement agency must complete certification of **ordered** crop destruction. In addition—

(A) The registered producer or permit holder must maintain a destruction report; and

(B) The registered producer or permit holder must submit a copy of the destruction report to the department within thirty (30) [*business*] **calendar** days of crop destruction.

(16) All harvested lots awaiting a certificate of analysis shall not be processed, commingled, or sold until compliant test results are obtained.

(17) Registered producers or permit holders are financially responsible for all costs associated with contracting laboratory services, sample collection, delivery of samples to the testing laboratory, and laboratory analysis.

*AUTHORITY: section 195.773, RSMo Supp. 2019. * Original rule filed Nov. 20, 2018, effective July 30, 2019. Emergency amendment filed Dec. 17, 2019, effective Jan. 2, 2020, terminated May 30, 2020. Amended: Filed Sept. 30, 2019, effective May 30, 2020.*

**Original authority: 195.773, RSMo 2018.*

2 CSR 70-17.100 Sampling Requirements and Results of Analysis – Proposed Rules

2 CSR 70-17.100 Sampling Requirements and Results of Analysis The department is amending sections (5), (9), (10), (11), (14), and (15).

PURPOSE: This amendment updates reporting information for Certified Samplers, timelines for pre-harvest sampling, submitting compliance certificates of analysis, and close out of orders of destruction.

PURPOSE: This rule explains the sampling requirements and results of analysis for the program.

- (1) All industrial hemp lots produced within a parcel of land must be sampled in accordance with the department’s sampling protocol and tested by a testing laboratory to ensure compliance with applicable laws and regulations.
- (2) All samples used to determine compliance with applicable laws and regulations must be collected by a certified sampler or authorized department personnel. All samples used to determine compliance with applicable laws and regulations must be submitted to a testing laboratory for analysis.
- (3) Requirements for a person to qualify as a certified sampler include:
 - (A) Complete a training course approved by the department;
 - (B) Pass a certification test with a score of no less than eighty percent (80%);
 - (C) Submit a certified industrial hemp sampler application; and
 - (D) Submit a non-refundable application fee of fifty dollars (\$50) to the department at the time of application.
- (4) An industrial hemp sampler certification is valid for a period of three (3) years unless revoked by the department. Certifications can be renewed by completing the requirements set in 2 CSR 70-17.100(3) to qualify as a certified sampler. Certified samplers must pay an annual fee of fifty dollars (\$50) for the second and third year of certification. Annual fees are due by the end of the month of the anniversary date of the initial approval.
- (5) Certified samplers or authorized department personnel shall—
 - (A) Adhere to the department sampling protocol for collection and handling of samples; *[and]*
 - (B) Complete and attach a department chain of custody form to each sample*[.]*; **and**
 - (C) **Complete and submit all reporting as required by the Department.**
- (6) No certified sampler shall sample a lot for a registration in—
 - (A) His or her name;
 - (B) His or her employer’s name; or
 - (C) Which he or she is a key participant.
- (7) The department may revoke the sampler’s certification if he or she—
 - (A) Admits to or has been found by the department to have violated proper procedures established in the department’s hemp sampling protocol;
 - (B) Makes any false statements to the department, Missouri State Highway Patrol or any law enforcement agency with regard to industrial hemp; or
 - (C) Fails to comply with any order from the department or any order regarding industrial hemp from the Missouri State Highway Patrol or any law enforcement agency.
- (8) Sampled plant material from separate lots shall not be commingled.
- (9) Samples must be taken within *[fifteen (15)]* **thirty (30) calendar** days prior to harvest.

(10) The **harvested materials from the lot [is a] are considered** publicly marketable *[product] products* if the sample used to determine compliance with applicable laws and regulations meets the definition of acceptable THC level.

(11) For any **pre-harvest** sample exceeding the acceptable THC level, the registered producer may request *[the laboratory to retest the sample. The registered producer must notify the department and the laboratory of the request in writing.]*;

(A) The laboratory retest the original sample;

(B) To remediate the lot and then resample the lot per the Sampling Protocol to determine compliance; or

(C) To proceed with an Order of Destruction for the lot.

(12) If a retest is not requested or the retest exceeds the acceptable THC level, the department will issue an order of destruction to the producer.

(13) Registered producers must maintain a copy of each certificate of analysis as part of the Industrial Hemp Plant Monitoring System for a period of three (3) years from the date of analysis.

(14) Registered producers must submit certificates of analysis for all samples used to determine compliance with applicable laws and regulations to the department **within seven (7) calendar days of receipt**.

[(A) Registered producers must submit to the department, within three (3) business days of receipt, copies of any certificate of analysis that show the tested sample measured above the acceptable THC level as evidence that the lot does not comply with applicable laws and regulations.

(B) Registered producers must submit to the department, within thirty (30) business days of receipt, copies of any certificate of analysis that show the tested sample measured within the acceptable THC level as evidence that the lot does comply with applicable laws and regulations.]

(15) The department may issue to the registered producer or permit holder an order of destruction for any lot testing out of compliance. Destruction must be completed by the registered producer or permit holder within fifteen (15) **calendar** days of receipt of the department's order of destruction. The Missouri State Highway Patrol or local law enforcement agency must complete certification of **ordered** crop destruction. In addition—

(A) The registered producer or permit holder must maintain a destruction report; and

(B) The registered producer or permit holder must submit a copy of the destruction report to the department within thirty (30) *[business]* **calendar** days of crop destruction.

(16) All harvested lots awaiting a certificate of analysis shall not be processed, commingled, or sold until compliant test results are obtained.

(17) Registered producers or permit holders are financially responsible for all costs associated with contracting laboratory services, sample collection, delivery of samples to the testing laboratory, and laboratory analysis.

AUTHORITY: section 195.773, RSMo Supp. 2019. Original rule filed Nov. 20, 2018, effective July 30, 2019. Emergency amendment filed Dec. 17, 2019, effective Jan. 2, 2020, terminated May 30, 2020.*

Amended: Filed Sept. 30, 2019, effective May 30, 2020.

**Original authority: 195.773, RSMo 2018.*

2 CSR 70-17.110 Industrial Hemp Plant Monitoring System Requirements

PURPOSE: This rule explains the industrial hemp plant monitoring system requirements for viable industrial hemp.

(1) All registered producers and permit holders must keep and maintain an Industrial Hemp Monitoring System for all records, reports, data, and certificates of analysis relating to the planting, cultivation, harvest, sampling, storage, destruction, sale, or distribution of viable industrial hemp. All records, reports, data, and certificates of analysis must be kept for a period of three (3) years from the date of each activity.

(2) All hemp monitoring system data shall be available for inspection and auditing during regular department business hours, or upon request in writing. The department shall be furnished complete copies of these records within ten (10) business days of receipt of request.

(3) Registered producers shall maintain the following:

(A) Planting Reports—

1. Registered producers must record, within thirty (30) days of planting, a planting report, including the replanting of seeds or propagules on a parcel of land. For each industrial hemp lot planted, the planting report shall contain:

A. GPS coordinates for the parcel of land;

B. The number of acres or square footage of each variety planted;

C. The GPS coordinates for each lot planted; and

D. The seed bag label or tag, bulk seed certificate, bill of lading/invoice for propagule(s), or documentation stating the origin of the industrial hemp.

(B) Sample Analysis Reports—

1. Certificates of analysis for all industrial hemp lots sampled by a certified sampler and tested by a testing laboratory must be kept for a period of three (3) years from date of analysis.

(C) Destruction Reports—

1. Within thirty (30) days of crop destruction the registered producer must produce a destruction report that includes the:

A. Copy of the department's order of destruction or a written statement justifying the destruction of the lot;

B. Amount destroyed;

C. Date(s) of destruction; and

D. Method of destruction.

(D) Harvest Reports—

1. Within thirty (30) days of harvest, the registered producer must produce a harvest report including:

A. Date of harvest for each lot;

B. Number of acres or square footage of each lot harvested;

C. Amount of each industrial hemp lot harvested; and

D. Location of viable seed storage.

(4) Permit holders shall maintain the following:

(A) Distribution and Sales Reports—

1. Within thirty (30) days of distributing or selling agricultural hemp propagules or agricultural hemp seed, permit holders shall record—

A. Name, address, phone number, permit number, and permit expiration date of the permit holder distributing or selling agricultural hemp seed or propagules;

B. Date(s) of sale and distribution;

- C. Complete variety name;
- D. Amount of each variety sold or distributed;
- E. Name, address, and phone number, registration or permit number, and registration or permit expiration date of the registered producer or permit holder to whom the agricultural hemp seed or propagules were distributed or sold; and
- F. Documentation verifying that copies of certificates of analysis were provided for each industrial hemp variety distributed or sold.

(B) Destruction Reports—

1. Within thirty (30) days of crop destruction the permit holder shall produce a destruction report that includes the:

- A. Copy of the department's order of destruction or a written statement justifying the destruction of the lot;
- B. Amount destroyed;
- C. Date(s) of destruction; and
- D. Method of destruction.

AUTHORITY: section 195.773, RSMo Supp. 2019. Original rule filed Nov. 20, 2018, effective July 30, 2019. Emergency amendment filed Dec. 17, 2019, effective Jan. 2, 2020, terminated May 30, 2020.*

Amended: Filed Sept. 30, 2019, effective May 30, 2020.

**Original authority: 195.773, RSMo 2018.*

2 CSR 70-17.120 Revocation of Registration or Permit

PURPOSE: This rule explains registration and permit revocations.

(1) The department may immediately revoke a registration if the registered producer or any key participant pleads guilty to, pleads *nolo contendere* to, is found guilty of, or is convicted of, a felony under any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance.

(2) The department may immediately revoke a registration or permit if the registered producer or permit holder admits to or is found by the department to have—

(A) Violated any provision of sections 195.203 to 195.773, RSMo or any regulation promulgated thereunder;

(B) Made any false statement to the department, the Missouri State Highway Patrol, or any law enforcement agency; or

(C) Failed to comply with any order from the department, or any order regarding industrial hemp from the Missouri State Highway Patrol or any law enforcement agency.

(3) Any registered producer or permit holder whose registration or permit has been revoked shall not harvest, store, distribute, sell, or remove viable industrial hemp from any location except as authorized in writing by the department.

(4) A registered producer or permit holder may request a revocation hearing within thirty (30) days of the issued notification.

AUTHORITY: section 195.773, RSMo Supp. 2019. Original rule filed Nov. 20, 2018, effective July 30, 2019. Emergency amendment filed Dec. 17, 2019, effective Jan. 2, 2020, terminated May 30, 2020.*

Amended: Filed Sept. 30, 2019, effective May 30, 2020.

**Original authority: 195.773, RSMo 2018.*

2 CSR 70-17.130 Agricultural Hemp Seed Requirements

PURPOSE: This rule designates the labeling requirements for agricultural hemp seed and also designates restricted weed seeds. Both agricultural hemp seed and restricted weed seeds content must be declared on the label to comply with the rule.

(1) This rule applies only to permit holders who sell, distribute, or offer for sale viable industrial hemp seeds.

(2) Definitions.

(A) Restricted Weed Seeds.

1. Prohibited Weed Seeds. The seeds of the following plants: balloon vine (*Cardiospermum halicacubum*), Canada thistle (*Cirsium arvense*), field bindweed (*Convolvulus arvensis*), Johnson grass (*Sorghum halepense*), musk thistle (*Carduus nutans*), serrated tussock (*Nassella trichotoma*), and sorghum alnum (*Sorghum alnum*).

2. Noxious Weed Seeds. The seeds of the following plants: plants commonly known as docks of the *Rumex species* (red sorrel, curly dock, etc.), dodders (*Cuscuta species*), buckhorn (*Plantago lanceolata*), eastern black night-shade (*Solanum ptycanthum*), giant foxtail (*Setaria faberi*), hedge bindweed (*Convolvulus sepium*), leafy spurge (*Euphorbia esula*), hoary cress (*Cardaria draba*), purple moonflower (*Ipomoea muricata*), quackgrass (*Elymus repens*), Russian thistle (*Salsola pestifer*), slender oats (*Avena barbata*), wild garlic (*Allium vineale*), wild oats (*Avena fatua*), wild onion (*Allium canadense*) and yellow star thistle (*Centaurea solstitialis*) are designated as noxious and are subject to listing on seed labels.

(B) Percentage of Germination. The label claim for percent of germination shall be the result of a test of any lot of seed which has been sampled according to and analyzed by the *AOSA Rules for Testing Seed*, (Vol. 1, 2018), Association of Official Seed Analysts.

(3) Agricultural Hemp Seed Labeling Requirements.

(A) Labeling Seed as to Noxious Weed Seed Content. Noxious weed seed content must be labeled in one (1) of the three (3) following ways:

1. None—meaning no noxious weed seed is present;

2. Not in excess of eighty (80) noxious weed seeds per pound or eighteen (18) per one hundred (100) grams;

3. Name and number of each kind of noxious weed seed present, when in excess of that stated in paragraph (3)(A)2.

(B) The seed label shall show the name, complete address, and zip code of the seed labeler.

(C) The purity percentages of pure seed, inert matter, other crop and weeds' seed shall total one hundred percent (100%) on the seed tag.

(D) The information required on an agricultural seed label should appear in the following format:

Kind or Kind and Variety of Seed		
Pure seed %	Germination %	Net weight
Inert matter %	Hard seed %	Lot #
Other crop %	Total germination and hard seed %	Origin
Weed seed %		Month and year of germination test
Noxious weed seeds per pound or per one hundred (100) grams		
The name and address of person or company held responsible for seed labeling should follow other information or should be printed on opposite side of label.		

(E) No advertising matter of any kind shall be printed on the label.

(F) No printed or written matter of any kind shall be attached to the original label.

(G) Seed in Storage. Any agricultural hemp seed, whether in bags, bins or other containers exposed to customers in a retail sales outlet, shall be considered offered or exposed for sale for seeding purposes in Missouri and will be subject to the provisions of this rule, unless the seed is labeled in one (1) of the following ways: “For Feeding Purposes Only” (with no reference being made to germination, variety, or other factors indicating that the seed is suitable for seeding purposes) or “For Processing Only—Not For Sale.”

(H) Any treatment of seed regulated by this law must be labeled to show the treatment.

1. The labeling of a treatment for seed must be done either on a separate tag or on the bag.

2. If a treatment adds more than one percent (1%) to the weight of the seed, that weight must also be included in the inert matter weight of the seed.

3. If the amount of treatment on the seed is harmful to man or animal, the label shall name the additive and give a precautionary use statement. In addition, a contrasting colored dye showing evidence of treatment must be used.

4. If the treatment of the seed is an inoculant, a date of expiration must be stated.

(I) The owner or possessor shall be responsible for properly labeled bulk or opened bags of agricultural seed.

AUTHORITY: section 195.773, RSMo Supp. 2019. Emergency rule filed Dec. 17, 2019, effective Jan. 2, 2020, terminated May 30, 2020. Original rule filed Sept. 30, 2019, effective May 30, 2020.*

**Original authority: 195.773, RSMo 2018.*

Appendix A – Website Links

Missouri Industrial Hemp Program

<https://agriculture.mo.gov/plants/industrial-hemp/>

Approved Operations List

<https://agriculture.mo.gov/plants/industrial-hemp/registrations-and-permits.pdf>

Industrial Hemp Program Applications

<https://agriculture.mo.gov/plants/industrial-hemp/applications.php>

Registered Producers resources

<https://agriculture.mo.gov/plants/industrial-hemp/registered-producer.php>

Agricultural Hemp Propagule and Seed Permit holder resources (Permit holders)

<https://agriculture.mo.gov/plants/industrial-hemp/permit-holder.php>

Certified Industrial Hemp Sampler resources

<https://agriculture.mo.gov/plants/industrial-hemp/certified-sampler.php>

List of Certified Industrial Hemp Samplers

<https://agriculture.mo.gov/plants/industrial-hemp/certified-industrial-hemp-samplers.pdf>

Frequently Asked Questions

<https://agriculture.mo.gov/plants/industrial-hemp/faq.php>

Additional Resources

<https://agriculture.mo.gov/plants/industrial-hemp/resources.php>

Appendix B – Sampling Protocol



Updated March 25, 2021

The Missouri Department of Agriculture anticipates continued regulatory changes in the coming years as state and federal rules are revised. Some of these changes may be reflected in procedures outlined in this document.

PRE-HARVEST COMPLIANCE SAMPLING

All industrial hemp lots must be sampled within **thirty (30) days prior to harvest** by a Certified Industrial Hemp Sampler. All compliance samples must follow this Sampling Protocol.

I. PRE-HARVEST SAMPLING EQUIPMENT & SUPPLIES

Provided by the Certified Industrial Hemp Sampler unless otherwise agreed upon

- Garden pruners, shears, or similar tool (cleaned before each sample)
- Disposable gloves (new pair per sample)
- New, unused collection bag(s)
- Security tape
- Permanent marker or pen
- Chain of custody form(s)
- GPS unit
- Ladder or similar tool, as needed

II. PRE-HARVEST SAMPLING PROCEDURES

The registered producer or an authorized representative should accompany the Certified Sampler throughout the sampling process, including through Step 5.

1. *Lot evaluation*; the Certified Sampler shall:
 - A. Review the growing area; identify boundaries of the lot and evaluate crop performance to ensure relative homogeneity within the lot.
 - B. Record GPS coordinates of the lot on the Chain of Custody form.
2. *Plant and cutting selection*; the Certified Sampler shall:
 - A. Based on lot size, identify the **required minimum quantity** from Table 1 at the end of this section. The quantity refers to both the minimum quantity *of cuttings*, and the minimum quantity *of plants* sampled. *One cutting is collected from each plant.*
 - i. The quantity collected may be more than the listed minimum, but not less. There is no maximum quantity, but laboratory requirements and storage should be considered.
 - ii. For lots that are fewer than four plants, one cutting from each plant is sufficient.
 - B. Select plants across the entire area that create an **overall pattern of "W" or "Z"**;
 - i. Avoid plants within ten (10) feet of borders, when possible, and plants that do not represent the homogeneity of the lot, such as extreme pest damage or plants located in standing water.
 - C. At each selected plant, choose **any branch (including the central stem) that is in the top one-third (1/3) of the above-ground plant material.**



- D. From that branch, take a cutting of the apical **five to eight inches** (12.7 – 20.3 centimeters). This apical cutting may also be referred to as a flowering top, terminal bud, central cola, or other equivalent terms.
 - i. Cuttings shall be placed directly into the sample collection bag and not be manipulated.
 - ii. Cuttings from separate lots shall not be commingled. Precautions, such as pre-labeling collection bags, must be taken to avoid accidental commingling if sampling for multiple lots in one visit.

- 3. *Optional duplicate sample*; if requested by the Registered Producer, the Certified Sampler shall create a duplicate sample. See *Section IV* for additional details.

- 4. *Packaging*; The Certified Sampler shall **seal** all collection bags with tamper-evident tape.
 - A. Both the Certified Sampler and the Registered Producer or the authorized representative shall **sign or initial over the edge of the tape** on each bag for additional tamper evidence.
 - B. This bag must be shipped or delivered as-is to the laboratory; additional packaging materials may be added as needed.

- 5. *Records*; The Certified Sampler shall complete all required paperwork, including the Sampling Log and Chain of Custody form(s).
 - A. Attach a complete *Chain of Custody* form to each bag. Additional copies may be made for records retention, if desired.
 - B. Identify samples with the following nomenclature, and include on the Chain of Custody form:
 - i. Registration ID – Lot ID – Month, Day & Year (MMDDYY) of Sample Collection
 Ex: 29_R19130 - A3 – 121521

Table 1. Minimum Quantity Table.

Size of Lot	Minimum Quantity	Size of Lot	Minimum Quantity
<1000 sq. ft.	4	10 - 14.99 acres	35
<0.99 acre	6	15 - 19.99 acres	40
1 - 1.99 acres	9	20 - 24.99 acres	45
2 - 2.99 acres	12	25 - 29.99 acres	50
3 - 3.99 acres	15	30 - 39.99 acres	55
4 - 4.99 acres	18	40 - 49.99 acres	60
5 - 5.99 acres	21	50 - 59.99 acres	65
6 - 6.99 acres	24	60 - 69.99 acres	70
7 - 7.99 acres	27	70 - 74.99 acres	75
8 - 8.99 acres	30	75+ acres	1 per acre
9 - 9.99 acres	33	Ex: 89 acres = 89 cuttings	



III. SHIPPING/DELIVERY PROCEDURES

The registered producer may authorize another individual, including the Certified Sampler, to ship or deliver the sample(s) to the laboratory. However, it is the *responsibility of the producer* to ensure these requirements are met.

1. Samples must arrive at the testing laboratory **within four (4) calendar days of sample collection**, regardless of holidays and weekends. However, faster delivery is recommended to retain sample quality, and may be required by the testing laboratory.
 - A. This four-day arrival window includes any time lapsed from collection to arrival at the chosen carrier. For example, if it takes three days for the producer to bring it to the local post office, they must ship it overnight. Or, if a sampler collects a sample on Monday, they can drive it to the laboratory on Thursday.
 - B. Shipping method chosen must be *guaranteed* by the carrier to arrive within the allotted four-day window. For example, a shipping method that shows 2 – 7 day delivery *may* arrive in time, but is not guaranteed to.
2. Samples not immediately shipped or delivered must be kept in a cool, dry location to maintain quality.
3. All samples in transit, including those shipped by a third-party, must include:
 - A. Copy of Producer Registration;
 - B. Chain of Custody form attached to each sample bag;
 - C. Additional information or forms required by the laboratory, if applicable.
4. All parties should review business policies prior to selecting a carrier for shipping, if applicable.
 - A. [USPS](https://about.usps.com/postal-bulletin/2019/pb22521/html/updt_002.htm) https://about.usps.com/postal-bulletin/2019/pb22521/html/updt_002.htm
 - B. [UPS](https://www.ups.com/us/en/help-center/packaging-and-supplies/special-care-shipments/hemp.page) <https://www.ups.com/us/en/help-center/packaging-and-supplies/special-care-shipments/hemp.page>
 - C. [FedEx](#) (prohibits hemp shipments as of 10/1/19)

IV. DUPLICATE SAMPLES

1. If requested by the Registered Producer, the Certified Sampler shall create a duplicate sample by:
 - A. Repeating the sample collection as described in *Section II*; or
 - B. Dividing the cuttings already collected into two even portions; cuttings must remain intact, and may not be manipulated in any way.
 - i. For example, a 6.3-acre lot requires a minimum of 24 cuttings. After dividing, the primary sample that will be sent to the laboratory will have 12 cuttings, and the duplicate sample will have the other 12 cuttings.
2. If a duplicate sample was collected, immediately place the sealed and signed bag(s) containing the duplicate sample into climate-controlled storage that will prolong the quality of the sample.
 - A. *Only the Registered Producer or a key participant of the registration may retain the duplicate sample.*
 - B. The Chain of Custody form must be updated to reflect who retains the duplicate sample.
3. This duplicate sample may be utilized if the first sample is deemed unusable by the laboratory or is lost in transit, but may not be used for retesting or remediation testing purposes.
4. If the lot is ordered for destruction, the duplicate sample must be destroyed with the rest of the lot. If the lot is remediated, the duplicate sample must be remediated with the rest of the lot.



REMEDIATION COMPLIANCE SAMPLING

V. REMEDIATION SAMPLING EQUIPMENT & SUPPLIES

Provided by the Certified Industrial Hemp Sampler unless otherwise agreed upon

- Long-handled scoop, corer, probe, or similar tool, where applicable (cleaned before and after each sample)
- Garden pruners, shears, or similar tool, where applicable (cleaned before and after each sample)
- Disposable gloves (new pair per sample)
- New, unused collection bag(s)
- Security tape
- Permanent marker or pen
- Chain of custody form(s)
- GPS unit

VI. REMEDIATION SAMPLING

The registered producer or an authorized representative should accompany the Certified Sampler throughout the remediation sampling process. **Remediation sampling must occur within sixty (60) calendar days after the pre-harvest sample was collected.**

1. *Evaluation*; the Certified Sampler shall:

- A. Identify the entirety of harvested materials for the lot.
 - i. If applicable, ensure all containment devices (totes, bales, tubs, and similar) are accounted for and accessible. If containment devices are stacked, tightly packaged, or otherwise not easily or equally accessible, Registered Producers or their representatives must rearrange them prior to sampling.
- B. Record GPS coordinates of the lot (harvested materials) on the Chain of Custody form.

2. *Sample collection*;

- A. For material that is being remediated by homogenization:
 - i. The Certified Sampler shall collect plant material from a **minimum of 20%** of containers (totes, bales, tubs, and similar).
 - a. If there are fewer than ten containers, at least two containers must be collected from to form a composite sample.
 - b. The containers should be selected in a randomized manner.
 - c. If possible, avoid containers that do not represent the homogeneity of the lot, such as those stored by a heater or exterior door, with rodent holes chewed through the bag, etc.
 - ii. At each selected container, utilize the scoop, probe, or similar tool to collect a portion of the homogenized material. Every effort must be made to collect a representative portion of the container selected, such as to provide equal opportunity to collect material from the center, sides, top, or bottom of the container – no matter the density of the material.
 - iii. The total amount collected to form the composite sample from all selected containers should, at a minimum, be **750 mL, or approximately three (3) cups**. More may be collected if desired or required by the laboratory.
- B. For harvested material that is being remediated by destroying the floral material, *and* the remaining non-floral material has *remained in the field*, the Certified Sampler shall:
 - i. Collect a minimum of **six (6) cuttings** from lots that are **less than 10 acres**, and a minimum of twelve (12) cuttings from lots that are greater than 10 acres.



- a. Select plant material across the entire area that creates an overall pattern of “W” or “Z”;
 - b. Avoid plant material within ten (10) feet of borders, when possible, and plants that do not represent the homogeneity of the lot, such as extreme pest damage or areas of standing water.
 - ii. At each selected plant or stalk, take a cutting of **five to eight inches** (12.7 – 20.3 centimeters). Where identifiable, utilize the apical end of the stalk.
 - a. Cuttings shall be placed directly into the sample collection bag and not be manipulated.
 - b. Cuttings from separate lots shall not be commingled. Precautions, such as pre-labeling collection bags, must be taken to avoid accidental commingling if sampling for multiple lots in one visit.
 - C. For harvested material that is being remediated by destroying the floral material, and the remaining non-floral is *not in the field*, the Certified Sampler shall choose either of the sampling methods described in 2A or 2B that is most similar to the given storage arrangement (in totes, baled, or loosely piled or hung), and sample as similarly as possible.
3. *Packaging*; The Certified Sampler shall **seal** all collection bags with tamper-evident tape.
- A. Both the Certified Sampler and the Registered Producer or the authorized representative shall **sign or initial over the edge of the tape** on each bag for additional tamper evidence.
 - B. This bag must be shipped or delivered as-is to the laboratory; additional packaging materials may be added as needed.
4. *Records*; The Certified Sampler shall complete all required paperwork, including the Sampling Log and Chain of Custody form(s).
- A. Attach a complete *Chain of Custody* form to each bag. Additional copies may be made for records retention, if desired.
 - B. Identify samples with the following nomenclature:
 - i. Registration ID – Lot ID – Month, Day & Year (MMDDYY) of Sample Collection
Ex: 29_R19130 - A3 – 122921

Please contact program staff at hempprogram@mda.mo.gov or (573) 522-0351 for questions regarding this document.

Any reporting submissions should be directed to reporting.hemp@mda.mo.gov.

Appendix C – Guidelines for Testing Laboratories



Updated March 25, 2021

The Missouri Department of Agriculture anticipates continued program modifications in the coming years in order to comply with federal law updates. Modifications may include procedures outlined in this document.

Registered Producers are responsible for selecting a laboratory that meets all accreditation, registration, testing, and reporting requirements. *Compliance of lots may be invalidated if a laboratory is found to not meet all requirements.*

I. LABORATORY STANDARDS

Missouri Industrial Hemp rules require that all industrial hemp compliance testing is conducted by a testing laboratory that is ISO/IEC 17025 accredited, **and** after December 31, 2022 is also registered with the DEA.

Any laboratory conducting compliance testing for a producer operating under a State Plan, including Missouri, must meet federal requirements, including but not limited to the following standards:

- Laboratory quality assurance protocols must ensure the validity and reliability of test results;
- Analytical method selection, validation, and verification protocols must ensure that the testing method used is appropriate (fit for purpose) and that the laboratory can successfully perform the testing;
- Protocols for demonstrating testing validity must ensure consistent, accurate analytical performance;
- Method performance specifications must ensure analytical tests are sufficiently sensitive for the purposes of the detectability requirements of this part;
- Testing protocols must include an effective disposal procedure, in accordance with USDA guidelines, for non-compliant samples that do not meet the requirements of this part;
- Laboratories shall use appropriate, validated methods and procedures for all testing activities and evaluate measurement of uncertainty;
- The range of estimated uncertainty is reported as a \pm value and is the same unit as the hemp THC threshold (e.g. +/- 0.05), following best practices for significant figures and rounding.

More information is available at: <https://www.ams.usda.gov/rules-regulations/hemp/information-laboratories>

II. LABORATORY TESTING

These procedures are for laboratories conducting compliance testing for industrial hemp, including pre-harvest and post-harvest (remediation) samples.

1. All equipment utilized throughout the testing process must be adequately cleaned between each sample to prevent contamination and carryover.
2. Immediately evaluate the security seal and Chain of Custody paperwork to ensure validity.
3. Assess the quality of the delivered sample. If the sample's quality is not sufficient for testing, immediately notify the producer so that they may take additional action.



4. Promptly dry the plant material in a manner that maintains the quality and cannabinoid content of the sample.
5. Homogenize the sample. This may be accomplished by pulverizing, grinding, or milling all cuttings within the sample together.
6. From the homogenized sample, obtain a “test specimen” and “retain specimen” consisting of the amount necessary to conduct the requested testing. Any surplus material may be properly disposed of.
7. The “retain specimen” must be packaged, security sealed, and stored in a secured place in a manner consistent with maintaining quality of the sample, including cannabinoid content. This retained specimen may be tested if requested by the producer.
 - a. The retained specimen must be properly stored for an established period after the “test specimen” testing is completed. MDA recommends fifteen (15) days, but yields to laboratory business practices.
8. Determine moisture content of the test specimen, or dry to a consistent weight.
9. Analyze the specimen by gas or liquid chromatography with detection, or similarly reliable methods approved by the United States Department of Agriculture.
 - a. This test must measure the decarboxylated Delta-9 tetrahydrocannabinol (THC), or other similarly reliable measures approved by the United States Department of Agriculture that also account for the conversion of tetrahydrocannabinolic acid (THC-A) into Delta-9 THC, including a calculated value of the sum of measured Delta-9 THC and 87.7% of measured THC-A.
10. Report test results on a dry-weight basis.

III. MEASUREMENT OF UNCERTAINTY

A Measurement of Uncertainty (MU) is the parameter, associated with the result of a measurement, which characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to measurement. It is a laboratory-calculated measurement that is similar to a margin of error. The MU must be reported as a \pm value and is the same unit as the hemp THC threshold (e.g. ± 0.05), and follow best practices for significant figures and rounding.

If the MU is not calculated, or is not presented on the Certificate of Analysis, the MU is effectively ± 0.00 for the purposes of creating a range. The decarboxylated Delta-9 THC measurement, or the total THC calculation is interpreted as-is.

IV. CHAIN OF CUSTODY

All compliance samples from Missouri’s registered producers must be in a *sealed* package, include a *signature* or initials from the registered producer **and** the Certified Sampler over the seal, and have a *Chain of Custody* form attached to each bag. The Chain of Custody form is available on the program website, in the Certified Samplers tab at:

<https://agriculture.mo.gov/plants/industrial-hemp/sample-chain-of-custody-form.pdf>

The Chain of Custody form will include a *Sample ID*, which must be transcribed onto the Certificate of Analysis for further identification. This may be entered in any field (notes, lot name, batch name, etc.).



V. REPORTING

For The Laboratory

USDA requires testing laboratories to submit test results for all industrial hemp compliance samples tested. More information about that reporting requirement can be found at: <https://www.ams.usda.gov/rules-regulations/hemp/information-laboratories>.

Missouri is currently operating under a federally-approved State Plan, under the authority of the 2018 Farm Bill. As of the date of this document, the Missouri Industrial Hemp Program does not have additional reporting requirements for testing laboratories to report directly to the Department.

On Behalf of the Producer

Registered producers are responsible for submitting Certificates of Analysis for all compliance samples to the Department within seven (7) days of receipt. Laboratories may send these results on the producer's behalf, but it is the producer's responsibility to ensure receipt within the allotted timeframe. Any agreement to submit results on a producer's behalf is between the laboratory and the producer, and is not regulated by the department.

VI. CERTIFIED INDUSTRIAL HEMP SAMPLERS

Certified Industrial Hemp Samplers are authorized to collect compliance samples in accordance with the MDA Sampling Protocol, but may not collect compliance samples for registrations in their name, their employer's name, or for a registration in which they are a key participant.

Laboratory personnel are eligible to become Certified Industrial Hemp Samplers, and may do so as third-party individuals or as representatives of the laboratory. More information about Certified Samplers and sampling can be found on our Certified Samplers webpage and in the MDA Sampling Protocol, both linked below.

<https://agriculture.mo.gov/plants/industrial-hemp/certified-sampler.php>

<https://agriculture.mo.gov/plants/industrial-hemp/sampling-protocol.pdf>

Please contact program staff at hempprogram@mda.mo.gov or (573) 522-0351 for questions regarding this document.

Any reporting, including Certificate of Analysis submissions, should be directed to reporting.hemp@mda.mo.gov.

Appendix D – Remediation Protocol



Updated March 25, 2021

The Missouri Department of Agriculture anticipates continued regulatory changes in the coming years as state and federal rules are revised. Some of these changes may be reflected in procedures outlined in this document.

Remediation refers to any approved process by which non-compliant hemp (total THC concentration > 0.3%) is rendered compliant (total THC concentration \leq 0.3%). All remediation lots must be resampled and retested to ensure the material does not exceed the acceptable hemp THC level.

I. ELIGIBILITY FOR REMEDIATION

- All industrial hemp lots must be sampled *prior to harvest* in accordance with the MDA Sampling Protocol; and,
- Harvested within the original thirty (30) day harvest window; and,
- Remediation procedures, including remediation sampling, must be completed **within sixty (60) days after the pre-harvest compliance sample** was originally collected

II. REMEDIATION METHODS

Non-compliant industrial hemp lots that are eligible for remediation must undergo an approved remediation method, and be resampled and retested to provide evidence that the harvested materials meet the acceptable hemp THC level. Two approved remediation methods are described below. Alternative remediation methods must receive written approval from the Missouri Department of Agriculture prior to use.

Destruction of Floral Material

Non-compliant lots may be remediated destroying the flower and associated materials, including buds, trichomes, trim, shake, and kief. These materials must be destroyed in accordance with the MDA Destruction Protocol Step 3. Any remaining non-floral material - stalks, stems, leaf material, and seed - must be resampled by a Certified Industrial Hemp Sampler in accordance with the applicable section of the MDA Sampling Protocol.

Homogenization

Non-compliant lots may be remediated by chopping or shredding all harvested components of the lot (entire plant) to create a uniform, homogenous "biomass" mixture. After shredding, the biomass mixture must be sampled by a Certified Industrial Hemp Sampler in accordance with the applicable section of the MDA Sampling Protocol.

- No plants or portion of plants may be sold, distributed, or further processed from this lot that are not included in the biomass mixture. For example, you cannot remove the leaves from this non-compliant lot and sell them separately.
- No commingling of other lots (including compliant and non-compliant lots) or commingling with other materials (including non-*Cannabis* material) is permitted.

Any viable seed obtained from remediated lots shall not be used, sold, or distributed for propagation (replanting) purposes.



III. SAMPLING OF REMEDIATION MATERIALS

After undergoing an approved remediation method, remediation materials must be sampled by a Certified Industrial Hemp Sampler in accordance with the MDA Sampling Protocol. This remediation sampling must occur within sixty (60) days of the pre-harvest compliance sampling.

IV. TESTING OF REMEDIATION MATERIALS

All remediation samples must be tested by a qualified testing laboratory. All test results for remediated materials, regardless of results, must be submitted to the Department **within seven (7) calendar days** of receipt.

- If the test results show a “pass” (total THC concentration of $\leq 0.3\%$), the lot is now compliant and the eligible remediated material may be moved into commerce. If any viable seed remains, it shall not be used, sold, or distributed for propagation (replanting) purposes.
- If the test results show a “fail” (total THC concentration of $> 0.3\%$), the lot remains non-compliant, will be ordered for destruction, and must be destroyed in accordance with the MDA Destruction Protocol.

V. REMEDIATION REPORTING & TIMELINE

The remediation process, including the remediation method and resampling, must be completed **within sixty (60) calendar days after the pre-harvest compliance sample collection** – this equates to thirty (30) calendar days after the harvest window closes.

A Remediation Report and Certificates of Analysis (COA) for remediated lots must be submitted to the Department **within seven (7) calendar days** of COA receipt. The Remediation Report will be made available by the Department. The Registered Producer must complete and submit the Remediation Report, and completed by the Registered Producer.

Test results for all remediation samples, regardless of total THC content, must be submitted to the Department **within seven (7) calendar days** of receipt.

For example:

***Day 1 – Pre-harvest compliance sample is collected.**

Day 4 – Sample arrives at the laboratory and the quality is sufficient for testing.

Day 16 – Laboratory completes testing and issues COA. It is a “fail”. (Must submit to MDA within 7 days)

Day 19 – Producer submits COA to the Department.

Day 20 – Producer and program staff discuss options. Producer chooses to remediate by homogenization and program staff provides the Remediation Report.

Day 28 – Producer completes harvest of the lot & begins drying process.

***Day 30 – Harvest of entire lot must be completed.**

Day 50 – Producer shreds all harvested material from this non-compliant lot and places into tubs.

Day 54 – Certified Industrial Hemp Sampler (CIHS) completes sampling of biomass material. Producer or CIHS sends remediated compliance sample to laboratory.

***Day 60 – Remediation procedures including sampling must be completed.**

Day 65 – Laboratory completes testing and issues COA. It is a “pass”. (Must submit to MDA within 7 days)

Day 67 – Producer submits the COA and the Remediation Report to the Department.

Appendix E – Destruction Protocol



Updated March 25, 2021






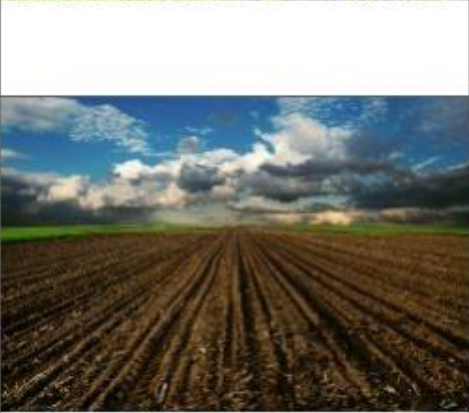
The Missouri Department of Agriculture anticipates continued regulatory changes in the coming years as state and federal rules are revised. Some of these changes may be reflected in procedures outlined in this document.

1. The Missouri Department of Agriculture (MDA) will issue, by certified mail, an *Order of Destruction (Order)* to the producer for the non-compliant lot.
 - a. MDA will also provide notification of the *Order* to the Missouri State Highway Patrol (MSHP).
2. The producer is responsible for arranging a certification appointment with MSHP or local law enforcement, as directed on the *Order*. Contact information will be provided to the producer in the *Order*.
3. The producer is responsible for completing the destruction within fifteen (15) calendar days of receipt of the *Order*. Date is verified by certified mail receipt or tracking data.
 - a. Persons who fail to destroy within the designated timeframe may be subject to an administrative fine of five hundred dollars (\$500), plus one thousand dollars (\$1,000) per day until such lot is destroyed.
 - b. Destruction must render the material unusable and non-retrievable.
 - c. Destruction methods approved by the Department are listed below. The producer must verify their preferred method is also allowable under local ordinances. On-site destruction is preferred.
 - i. Mowing, chipping, or chopping; *and*
 1. Incorporation into the soil through plowing, tilling, or disking; or
 2. Incorporation with other materials through composting or landfilling, *and* thorough saturation with water.
 - ii. Incorporation into the soil through plowing, tilling, or disking; or
 - iii. Burning on site
 1. Additional state agency approvals or permits may be required.
 - d. Other methods of destruction may be evaluated by the Department. Any methods not listed in this document must have a written, signed approval letter from the Missouri Department of Agriculture Industrial Hemp Program prior to commencing any destruction actions.
4. Destruction must be certified by MSHP or local law enforcement.
 - a. The producer is responsible for contacting and arranging destruction certification. Contact information will be provided in the *Order of Destruction*.
 - b. Prior to the arrival of the certifying agent, the producer shall complete sections A through E of the *Destruction Report*, which is included in the mailing of the *Order*. The certifying agent will complete section F. Both parties will sign the report.
 - i. The producer must mail the **white** copy of the completed report to MDA as soon as possible, but no later than thirty (30) calendar days after destruction.
 - ii. The producer must retain the **yellow** copy of the completed report for three (3) years.
 - iii. The certifying agent will retain the **pink** copy of the completed report for their records.
 - c. The producer is subject to a destruction certification fee commensurate with the cost reimbursed to MSHP or local law enforcement for their services.

If the *Order of Destruction* is issued for a specific lot or lots, separation of the lots must be evident as determined by the Missouri Department of Agriculture or the destruction certifying agent. If the separation is not clear, all lots within the registration, parcel, or storage facility are subject to destruction. If the ordered lot is harvested and the materials are commingled with other lots, including lots under other registrations or permits, all lots are subject to destruction.









The following pictures and descriptions are examples to improve understanding of destruction activities. Each activity alone may not be sufficient to render the materials unusable and non-retrievable.

Photo Example	Ag Production Activity	Compliant outcome	Photo Example
	<p>Plowing Under</p> <ul style="list-style-type: none"> • Curved plow blades rotate subsoil to surface and bury crop below 	<p>Plowing Under</p> <ul style="list-style-type: none"> • “Green Manure” • Amends soil directly from crop 	
	<p>Mulching / Composting</p> <ul style="list-style-type: none"> • Fields crops cut and blended with manure or other biomass material 	<p>Mulching / Composting</p> <ul style="list-style-type: none"> • “Green Manure” • Mulch mixed with manure or other biomass 	
	<p>Disking</p> <ul style="list-style-type: none"> • Leveling of field using tow-behind disk implement 	<p>Disking</p> <ul style="list-style-type: none"> • “Green Manure” • Amends soil directly from crop while leveling field 	



The following pictures and descriptions are examples to improve understanding of destruction activities. Each activity alone may not be sufficient to render the materials unusable and non-retrievable.

Photo Example	Ag Production Activity	Compliant outcome	Photo Example
	<p>Bush Mower / Chopper</p> <ul style="list-style-type: none"> Commercial lawn mower used to shred and mix thick vegetation 	<p>Bush Mower / Chopper</p> <ul style="list-style-type: none"> “Green Manure” Shredded biomass decomposes into soil 	
	<p>Deep Burial</p> <ul style="list-style-type: none"> Fields are trenched, surface soil is buried at depth of at least 12” 	<p>Deep Burial</p> <ul style="list-style-type: none"> Field biomass buried in trenches and covered with soil 	
	<p>Burning</p> <ul style="list-style-type: none"> Setting fire to specific production fields or biomatter piled on the field 	<p>Burning</p> <ul style="list-style-type: none"> Fields are cleared of all plant material 	

Appendix F - FSA Reporting Guidance



Updated March 25, 2021

The United States Department of Agriculture (USDA) requires that **all producers must report industrial hemp production of any size to the Farm Service Agency (FSA).**

The first step in completing this reporting requirement is to contact your local FSA office to set up an account, if you do not already have one. Use the search tool at the following link to locate your nearest office:

<https://www.farmers.gov/service-center-locator>

At this meeting, you should expect to provide the following information to FSA staff:

1. Producer Registration Number
2. Street Address
3. Geospatial location(s) of each lot or greenhouse where industrial hemp will be produced
4. Acreage of greenhouse or indoor square footage dedicated to the production of industrial hemp

Once an account is set up, you are required to report the amount of industrial hemp planted to FSA.

5. Acreage of industrial hemp planted

Generally reporting for planting must be completed by August 15, but **FSA strongly recommends reporting as soon as possible after planting.** Consult with your [local FSA office](#) to confirm your reporting requirements as these dates may vary depending on many factors including continuous cultivation and participation in [USDA programs](#) such as NRCS, insurance, or loans.

Registered Producers shall maintain evidence of completed reporting, such as a copy of the completed FSA-578 form, in their records for three (3) years. These records will be reviewed by MDA staff upon inspection or request.

Note: The Farm Service Agency (FSA) is not a part of the Missouri Department of Agriculture and producer information cannot be transferred between the agencies. This USDA-FSA reporting requirement is separate from other reporting required by the Missouri Department of Agriculture.