



DEPARTMENT of AGRICULTURE
STATE OF MISSOURI
JEFFERSON CITY

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

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GOVERNOR

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August 5, 2020

Sonia Jimenez, Deputy Administrator
Specialty Crops Program
USDA Agricultural Marketing Service
1400 Independence Avenue SW
Room 2077-S, Stop 0235
Washington, D.C. 20250-0235

Re: Missouri State Plan – Industrial Hemp

Dear Deputy Administrator Jimenez:

The Missouri Department of Agriculture (Department) is submitting a State Plan to administer commercial production of industrial hemp within the state. The Department has significant experience in administering regulatory programs and is comprised of the following regulatory divisions:

1. Animal Health;
2. Grain Inspection and Warehousing;
3. Plant Industries; and
4. Weights, Measures and Consumer Protection.

The Department's mission is, "serving, promoting and protecting the agricultural producers, processors and consumers of Missouri's food, fuel and fiber products."

The Department's Industrial Hemp Program is within the Plant Industries Division. The Division is comprised of five regulatory programs:

1. Feed and Seed Program;
2. Industrial Hemp Program;
3. Pesticide Control Program;
4. Plant Pest Control Program; and
5. Produce Safety Program.

The Industrial Hemp Program was formed pursuant to Sections 195.740 – 195.773, RSMo Supp. 2019. The legislation follows guidance established in the Agricultural Improvement Act of 2018. The

Department established state regulations in chapter 2 CSR 70-17 of the Missouri Code of State Regulations effective May 30, 2020 that meet the criteria under the IFR 990.

I certify that Missouri has the resources and personnel to carry out the practices and procedures described in clauses (i) through (vi) of Sec. 297B(2)(A) of the Agricultural Marketing Act of 1946 as amended in Sec. 10113 of the Agricultural Improvement Act of 2018.

Sincerely,



Chris Chinn
Director

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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 October 31, 2019, in 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) or Agricultural Hemp Propagule and Seed Permit (permit). 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.
 - Documentation links:
 - o [195.740 RSMo. Definitions](#)
 - o [195.746 RSMo. Registration and permits, requirements — application, contents — issuance, when.](#)
 - o [2 CSR 70-17.010](#) Definitions
 - o [2 CSR 70-17.020](#) Registration and Permit Application Requirements
 - o [2 CSR 70-17.030](#) State and Federal Fingerprint Criminal History Background Check Requirements
 - o 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 fifteen (15) 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 meets ISO 17025 accreditation, has begun the process of ISO accreditation, or is registered with the United States Drug Enforcement Agency (DEA).
 - Documentation links:
 - o [2 CSR 70-17.010](#) Definitions
 - o [2 CSR 70-17.100](#) Sampling Requirements and Results of Analysis
 - o Appendix B - [Sampling Protocol](#) and available at; <https://agriculture.mo.gov/plants/industrial-hemp/sampling-protocol.pdf>

- Appendix C - [Laboratory Guidance](#) and available at;
<https://agriculture.mo.gov/plants/industrial-hemp/laboratory-guidance.pdf>
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 Report (AMS-24), State and Tribal Hemp Annual Report (AMS-25). Reporting to be provided not more than thirty- (30-) days after the date on which the information is received.
4. Documentation links:
- [195.758 RSMo](#)
 - [2 CSR 70-17.010](#) Definitions
 - [2 CSR 70-17.100](#) Sampling Requirements and Results of Analysis
 - Destruction Protocol available at; <https://agriculture.mo.gov/plants/industrial-hemp/destruction-protocol.pdf>
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.
6. 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
7. 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 Report (AMS-24), State and Tribal Hemp Annual Report (AMS-25). Reporting to be provided not more than thirty- (30-) after the date on which the information is received. 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.
8. 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 D - FSA Guidance and available at; <https://agriculture.mo.gov/plants/industrial-hemp/fsa-guidance.pdf>

6. 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 may qualify as negligent include failure to provide legal description of land, failure to obtain a license or produce cannabis with THC exceeding the acceptable hemp THC level.
 - i. 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 may include; establishing a date to correct the violation, additional reporting requirements for two (2) years from the date of violation, violations may not be subject to federal, state, tribal, or local government criminal enforcement action, provides that 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.
 - ii. 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 70-17.120 and enforcement discretion may be used to address ineligibility resulting from participation in a state hemp pilot program authorized under the 2014 Agricultural Act before December 20, 2018.
- 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.

- Documentation links:

- [195.749 RSMo.](#)
- [195.752 RSMo.](#)
- [2 CSR 70-17.120 Registration and Permit Application Requirements](#)

7. Certification that the state or Indian tribe (whichever applicable) has the resources and personnel to carry out required Farm Bill practices and procedures.

- i. See the cover letter submitted with this plan, also available in Appendix B.

- Documentation links:

- Cover Letter
- [195.764 RSMo](#)
- [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

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 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.
- (8) Certified industrial hemp sampler (certified sampler)—a person that meets the requirements established by the department for conducting field 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.
- (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) Testing laboratory—a laboratory—
- (A) Is registered with the Drug Enforcement Agency (DEA) or other requirements established by the United States Department of Agriculture; or
 - (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) 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

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.
- (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) days prior to harvest.
- (10) The lot is a publicly marketable product if the sample used to determine compliance with applicable laws and regulations meets the definition of acceptable THC level.
- (11) For any 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.
- (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.
- (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) days of receipt of the department's order of destruction. The Missouri State Highway Patrol or local law enforcement agency must complete certification of 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 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 August 4, 2020

The Missouri Department of Agriculture anticipates significant program modifications by the end of 2020 in order to comply with federal law. Modifications may include procedures outlined in this document.

A compliance sample must be taken for each lot within fifteen (15) days prior to harvest by a Certified Industrial Hemp Sampler.

CERTIFIED INDUSTRIAL HEMP SAMPLERS

A Certified Industrial Hemp Sampler (Certified Sampler) is a person certified through a Missouri Department of Agriculture-approved sampler certification program. Requirements include completing a training course, passing an exam, and submitting an application for certification with a nonrefundable fifty dollar (\$50) application fee. A nonrefundable annual fee of fifty dollars (\$50) will be due at the end of the anniversary month of the date of issuance.

Certified samplers are authorized to collect compliance samples, and must follow the MDA Sampling Protocol outlined in this document and any successor documents. Certified samplers are not employees, representatives, or contractors for the Missouri Department of Agriculture. Certified Samplers may not collect samples for a registration in their name, in their employer's name, or in which they are a key participant.

SAMPLING APPOINTMENT

A registered producer should have a Certified Sampler scheduled no later than thirty (30) days prior to the intended harvest date. The registered producer or an authorized representative should accompany the Certified Sampler throughout the sampling process, including through the sealing of collection bags.

FEES

A registered producer is responsible for all fees incurred for compliance sampling. Certified Samplers shall invoice the producer directly for all fees. A registered producer is also responsible for all fees incurred to test a sample. They may choose any laboratory that meets the established requirements. Any testing or related services must be invoiced to the producer directly. The Missouri Department of Agriculture does not regulate sampling or testing fees.

HOW MANY SAMPLES?

*Each lot requires its own sample to determine compliance. A lot is a group of plants of the same cannabis variety or strain in a contiguous area in a field, greenhouse, or indoor growing structure. A single variety grown both indoors and outdoors must be treated as separate lots. Although a single lot may be spread across many acres, registered producers may choose to subdivide large areas into many smaller lots. Subdividing further into additional lots is *recommended* for large contiguous areas, including those with significantly different growth factors such as soil types, fertility, irrigation, and cultivation practices. *Additionally, the subdivided areas or lots must be clearly defined and physically separated until all test results are confirmed.**

It is a recommended practice to take a duplicate sample of each lot in the event a sample is lost in transit or is deemed unusable by the laboratory upon arrival. Producers may request the Certified Sampler to collect a backup, duplicate sample, but it is not required.



PHYSICAL SEPARATION OF LOTS

All lots must be clearly defined, labeled, and physically separated until all test results are confirmed. Lots that are not easily identifiable may be subject to destruction if any lot is found to be out of compliance.

Separation may occur by unplanted or mown paths, natural markers such as streams or wind breaks, seasonal markers such as stake flags and barricade tape, or other evident means. These physical separations must be visible at all points during production, sampling, and harvest, and **correspond to the lots on the *Lot Identification Form*** of the Plant Monitoring System.

HARVEST

Harvest may not occur until sampling by a Certified Sampler has been completed per MDA protocol. Harvest may begin immediately after sampling, but must be completed within fifteen (15) calendar days after sampling. If harvest of the entire lot cannot be completed within fifteen (15) days after sample collection, including due to weather or labor-related issues, an additional compliance sample must be collected.

Harvest may occur before test results are obtained. Harvested materials from separate lots shall not be commingled, including lots of the same variety. All commingled or not clearly identified harvested materials shall be subject to destruction if any commingled or not clearly identified lot is found to be out of compliance, including those under other registrations. Producers who chose to harvest and store, especially off-site or by third-parties, prior to obtaining test results do so at their own risk. Harvested materials may be dried, bucked, seed/grain cleaning, or retted immediately after harvest. However, further processing including extraction is *prohibited* prior to confirmation of compliant test results.

SAMPLE COLLECTION

EQUIPMENT & SUPPLIES

Provided by the Certified Industrial Hemp Sampler

- Garden pruners, shears, or similar tool (cleaned before and after each sample)
- Disposable gloves (new pair per sample)
- New, unused collection bag(s)
- Security tape
- Permanent marker or pen
- GPS unit

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. Record GPS coordinates of the parcel and lot.
 - B. Review the growing area; identify boundaries of the lot and evaluate crop performance to ensure relative homogeneity within the lot.
2. *Plant and cutting selection*; the Certified Sampler shall:
 - A. 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.

- B. Select an appropriate number of plants based on lot size, and **collect one cutting per plant**. The chart below may be used as a guide.
 - i. Collect a **minimum of six (6)** cuttings per lot or per acre, whichever is smaller. If there are fewer than six plants in the lot, one cutting per plant is sufficient.
 - ii. Collect a **maximum of one hundred fifty (150)** cuttings per lot.

Lot Size	Min. # of cuttings*	Max. # of cuttings
0.25 acres	6	150
1.0 acre	6	150
5.0 acres	30	150
10.0 acres	60	150
15.0 acres	90	150
20.0 acres	120	150
25.0+ acres	150	150

*If a duplicate sample is created, the minimum quantity of cuttings within a sample may be halved. For example, a sample comprised of six (6) cuttings is split into a primary sample and a duplicate sample, with three (3) cuttings in each.

- C. At each selected plant, choose **any branch 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 20 centimeters (7.87 inches)** including floral material, or the entire inflorescence of that branch. Cuttings shall be placed directly into the sample collection bag and not be manipulated in any way.
 - i. 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. If requested by the registered producer, the Certified Sampler shall create a duplicate sample by repeating the steps above or by splitting the plant material already collected. This duplicate sample may be utilized if the first sample is deemed unusable by the laboratory or is lost in transit.
- 4. 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.
- 5. The Certified Sampler shall complete all required paperwork.
 - A. Attach a complete *Chain of Custody* form to each bag.
 - B. Identify samples with the following nomenclature:
 - i. Registration ID – Lot ID – Month, Day & Year (MMDDYY) of Sample Collection
 - ii. Ex: 29_R19130 - A3 – 121519
- 6. Samples shall be put into transit to the selected testing laboratory no later than twenty-four (24) hours after sample collection. Samples may be shipped or delivered by the producer, an authorized agent, or the Certified Sampler. Samples not immediately shipped or delivered shall be kept in a cool, dry location.
 - A. Overnight shipping or direct delivery to the lab is highly recommended and may be required by the testing laboratory. However, a **minimum guaranteed speed of three (3) business days is required by MDA**.
 - i. 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



- 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)
- B. If shipping samples, Registered Producers are responsible for ensuring all packages include:**
- i. **Copy of Producer Registration;**
 - ii. **Chain of custody form;**
 - iii. **Additional information required by the laboratory, if applicable.**
7. If a duplicate sample was collected, immediately place the sealed bag containing the duplicate sample into a freezer or other climate-controlled storage that will prolong the quality of the sample. The Registered Producer, the Certified Sampler, or their agent may retain the duplicate sample. The *Chain of Custody* form must be completed accordingly.
- A. If test results show non-compliance, the duplicate sample must be destroyed with the rest of the lot.
8. If the first sample is lost in transit or deemed unusable by the laboratory upon arrival, the producer shall:
- A. Ship or deliver the duplicate sample to the laboratory, if collected.
 - B. If no duplicate sample was collected or the duplicate sample is also unusable; and,
 - i. The lot is unharvested, the producer may have the lot(s) resampled by a Certified Sampler with MDA written approval, or,
 - ii. The lot is harvested, destruction is required.

CREATION OF ADDITIONAL LOTS AT SAMPLING (Added August 2020 for Clarification)

A Registered Producer may further separate lots at or before sampling, such as to separate sections of the field that are maturing or performing differently. Registered Producers must submit these new lots through a Lot Identification Form within fifteen (15) days after creation, or in conjunction with the submission of the test results, whichever is earlier.

INCOMPLETE HARVEST (Added August 2020 for Clarification)

Once a compliance sample is collected, the Registered Producer can begin harvesting immediately and must complete harvest of the entire lot within fifteen (15) days. If the Registered Producer cannot complete harvest of the entire lot within that window, a new lot comprised of the remaining unharvested plants must be created and submitted to the Program as described above. This new lot must then be sampled by a Certified Industrial Hemp Sampler.

For further information about laboratories and testing, see the *Laboratory Guidance*.

Appendix C – Laboratory Guidance



The Missouri Department of Agriculture anticipates significant program modifications by the end of 2020 in order to comply with federal law. Modifications may include procedures outlined in this document.

The following section is intended for Registered Producers.

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.*

LABORATORY QUALIFICATIONS

- Registered with the Drug Enforcement Agency (**DEA**) or other requirements established by the United States Department of Agriculture; **or**
- Accredited to International Organization for Standardization for **ISO/IEC 17025**

A list of DEA registered laboratories is available at <https://www.ams.usda.gov/rules-regulations/hemp/dea-laboratories>. There is not currently a comprehensive list available for ISO 17025 accredited laboratories, but labs will often have their accreditation status posted online or available upon request.

Please note that on February 27, 2020, USDA [made an announcement](#) related to the requirement that all U.S. hemp producers must utilize DEA-registered testing laboratories. This announcement does not change Missouri industrial hemp rules, and registered producers in Missouri are required to select a qualifying laboratory as listed above.

COMPLIANCE DETERMINATION

Most laboratories will include a “pass” or “fail” determination on the certificate of analysis; this determination is based on the total THC measurement and the measurement of uncertainty (MU) calculated by the laboratory. If there is no MU calculated or present on the certificate of analysis, the MU is 0.000%.

For example, if the total THC measurement is 0.32% but the MU is calculated at 0.028%, then the range created is 0.292% - 0.348%. This sample is compliant (pass) because the range *contains or is below* the 0.3% acceptable THC level.

SUBMITTING CERTIFICATES OF ANALYSIS

Registered producers must submit certificates of analysis for all samples used to determine compliance to the department via email to reporting.hemp@mda.mo.gov.

- For certificates of analysis that “pass” or demonstrate compliance, registered producers must submit a copy to the department within **thirty (30) business days** of receipt of results
- For certificates of analysis that “fail” or demonstrate non-compliance, or for any retest, registered producers must submit a copy to the department within **three (3) business days** of receipt of results

RETESTING

If the initial test indicates a “fail”, the Registered Producer must submit the results as detailed above, and concurrently notify MDA of the intent to retest, if applicable. If requested by the producer, the laboratory may retest the ‘retain specimen’ already in their possession, as indicated in Steps 7 and 8 of the laboratory procedures section of this document. All retest certificates of analysis, regardless of results, must be submitted within three (3) business days. The duplicate sample retained by the Registered Producer or Certified Sampler cannot be utilized for retest purposes.



The following section is intended for laboratory personnel.

LABORATORY PROCEDURES

These procedures are intended as guidelines for laboratories conducting compliance testing for hemp, and are based on those outlined in USDA Interim Final Rule; listed in 7 CFR Part 990 [Doc. No. AMS–SC–19–0042; SC19–990–2 IR]

<https://www.govinfo.gov/content/pkg/FR-2019-10-31/pdf/2019-23749.pdf>

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 consistent with maintaining quality, including cannabinoid content, of the sample.
5. Homogenize the sample. This may be accomplished by pulverizing, grinding, or milling all cuttings.
6. Sieve the plant material through a screen no larger than 1.5 x 1.5 mm.
7. From the homogenized sample, obtain a “test specimen” and “retain specimen” consisting of the quantity necessary to conduct appropriate testing. Any surplus material may be properly disposed of.
8. 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 preserved for an established, published period after the “test specimen” testing is completed. MDA recommends fifteen (15) days, but yields to laboratory business practices.
9. The specimen(s) must be tested for Delta-9 tetrahydrocannabinol (THC) post-decarboxylation, or other similarly reliable methods approved by the United States Department of Agriculture that account for the Total THC concentration on a dry weight basis, including a calculated value using Delta-9 THC plus 87.7% of THC-A. Common procedures utilized include gas or liquid chromatography with detection.

INCREASED SAMPLE SIZE

Each sample will contain a minimum of one (1) cutting and up to a maximum of one-hundred fifty (150) cuttings per lot, with three (3) to six (6) cuttings being most common. The quantity collected depends on many factors including the overall lot size and the option to split samples to create a duplicate ‘backup’ sample. Each cutting will contain approximately twenty centimeters (20cm) of plant material, or the entire inflorescence of the branch it was taken from. The program understands this amount of plant material is significantly more than what is required to conduct testing and may create a strain on laboratories. However, the increased sample size is pertinent to develop a truly representative sample and reduce sampling error. Once homogenization is completed, laboratories may separate the amount needed to create the specimens outlined in Steps 7 and 8 above, and properly dispose of any surplus material.

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. *If no MU is calculated or presented on the certificate of analysis, the MU is effectively 0.000%.* Additional information about Measurement of Uncertainty can be found in the “Guidelines for Testing” document available through USDA at: <https://www.ams.usda.gov/rules-regulations/hemp/information-laboratories>



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. The form will also include a list of transfers of possession, originating with the registered producer. The registered producer, the certified sampler, or their agent is permitted to deliver or ship the sample to the laboratory, with the Chain of Custody form updated and signed accordingly.

CERTIFICATE OF ANALYSIS

The following elements must be included on each compliance sample's Certificate of Analysis to ensure clear interpretation by all interested parties:

- Percentage content of tetrahydrocannabinol (THC)
 - Delta-9 THC measured post-decarboxylation; **or**
 - The calculated Total THC value using (Measured Delta-9 THC) + (Measured THC-A * 0.877)
- Clear declaration that decarboxylation methods were completed, if applicable
- Measurement of Uncertainty (MU), if calculated
- "Pass" or "Fail" determination
 - If the range created by the measurement of uncertainty *contains or is below* the acceptable hemp THC level of 0.3%, the sample is considered compliant and shall be labeled as "pass"
- Identifying information, including:
 - Sample ID number (Ex: 29_R01930 – A4 – 071819)
 - As identified on the *Chain of Custody* form; includes:
 - Producer registration (license) number
 - Lot ID
 - MMDDYY of sample collection
 - If not provided (such as for a non-compliance sample): the producer's name, registration (license) number, and contact information
 - Date test conducted
 - Laboratory name and contact information

REPORTING

For The Laboratory

USDA requires all laboratories to submit test results for all industrial hemp 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 an extension of the 2014 Farm Bill. At this time, the Missouri Industrial Hemp Program does not have any additional reporting requirements for testing laboratories. However, laboratories that conduct testing for producers in other states should consult with applicable departments of agriculture prior to receiving samples from that state.



REPORTING

On Behalf of the Producer

Registered producers are responsible for submitting certificates of analysis for all compliance samples to the department via email to reporting.hemp@mda.mo.gov. Laboratories may send these results on the producer's behalf, but it is the producer's responsibility to ensure receipt within the time guidelines. Any agreement to submit results on a producer's behalf is between the laboratory and the producer and is not regulated by the department.

Laboratory results submitted by the laboratory to the Missouri Department of Agriculture must include the **sample ID** number from the Chain of Custody Form.

- For certificates of analysis that "pass" or demonstrate compliance, a copy must be sent to the department within thirty (30) business days of the dissemination of results to the producer
- For certificates of analysis that "fail" or demonstrate non-compliance, a copy must be sent to the department within three (3) business days of the dissemination of results to the producer

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>

Appendix D – FSA Reporting Guidance



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.

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.