EMERGENCY AMENDMENT

2 CSR 70-17.010 Definitions. The department is amending the entire rule.

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

PURPOSE: This rule lists definitions for Chapter 17.

EMERGENCY STATEMENT: This emergency amendment informs the public of what provisions are necessary for the efficient and effective implementation of the Industrial Hemp Program. The department believes this emergency amendment 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 2020 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. Anecdotal evidence suggests that a minimum of five hundred (500) persons will be registered to produce industrial hemp as a result of meeting the requirements for a registration or permit. 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 amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. MDA believes this emergency amendment is fair to all interested parties under the circumstances. A proposed amendment covering this same material was published in the November 1, 2019, issue of the Missouri Register (44 MoReg 2668-2670). This emergency amendment was filed December 17, 2019, becomes effective January 2, 2020, and expires June 29, 2020.

The terms defined in sections 195.010 and 195.740, RSMo, in addition to other relative terms pertaining to the industrial hemp (agricultural pilot) program will be applied for use in 2 CSR 70-17.010 to 2 CSR 70-17.130.

(11) Agricultural Hemp Seed Production Permit—permit issued by the Missouri Department of Agriculture to registered growers and handlers engaged in the production of agricultural hemp seed that:
(A) Is sold or intended to be sold to registered growers for planting; or
(B) Remains capable of germination.

(2) Applicant—a person, joint venture, or cooperative who submits an application for registration as a grower and/or handler.

(3) CBD—cannabidiol.

(4) Certificate of analysis—a certificate from an independent testing laboratory describing the results of the laboratory’s testing of a sample.

(5) Certified agricultural hemp seed—seed for which a certificate or any other instrument has been issued by an agency authorized under the laws of any country, state, territory, or possession of the United States to officially certify seed and that has standards and procedures approved by the Association of Official Seed Certifying Agencies (AOSCA) to assure the genetic purity and identity of the seed certified.

(6) Cooperative—organization that is owned and run jointly by its members, who share the profits or benefits.

(7) Delta-9 THC—delta-9 tetrahydrocannabinol.

(8) Department—The Director of the Department of Agriculture and all department employees.

(9) Destroy/destruction—rendered unusable by burning or incorporating with other materials in a manner approved by the Missouri Department of Agriculture.

(10) Grower registration—registration issued by the Missouri Department of Agriculture to applicants for production and cultivation of industrial hemp.

(11) Handler registration—registration issued by the Missouri Department of Agriculture to applicants for processing industrial hemp into publicly marketable hemp products.

(12) Harvest—the termination of the cultivation process.

(13) Hemp extract—an extract from a cannabis sativa L. plant or a mixture or preparation containing cannabis sativa L. plant material that is composed of no more than three-tenths of one percent (0.3%) delta-9 THC on a dry weight basis.

(14) Independent testing laboratory—a laboratory:
(A) With respect to which no person having a direct or indirect interest in the laboratory also has a direct or indirect interest in a business that:
1. Cultivates, processes, dispenses, or sells industrial hemp or marijuana;
2. Processes or sells hemp extract, CBD, or other similar substance in another state or jurisdiction; and
(B) That is accredited 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) or Assured Calibration and Laboratory Accreditation Select Services (ACLASS). After the two (2) year period from the original effective date of this rule, the laboratory must also have the industrial hemp testing they perform on their scope of accreditation.
Emergency Rules

(15) Industrial Hemp— as defined in section 195.010 (24), RSMo.

(16) Joint venture— a commercial enterprise undertaken jointly by two (2) or more persons that otherwise retain their distinct identities.

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

(18) Plot of Land— means a contiguous parcel of land registered with the department on which a registrant plans to cultivate industrial hemp.

(19) Propagule— any viable nonseed plant material used to cultivate industrial hemp, including transplants, cuttings, and/or clones.

(20) Publicly marketable hemp 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.

(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. For 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 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 United States Department of Agriculture (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 a partnership, or a person with executive managerial control in a corporation. A person with executive managerial control includes, but is not limited to, 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 that is:

(A) Registered with the Drug Enforcement Agency (DEA) or other requirements established by the United States Department of Agriculture; or...
(B) 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) or ANSI-ASQ National Accreditation Board (ANAB). 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.


PUBLIC COST: This emergency amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This emergency amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.