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

EMERGENCY AMENDMENT

2 CSR 70-17.100 Sampling Requirements and Results of Analysis. The department is amending the title, purpose, section (1), deleting section (2)–(7), and adding new sections (2)–(17).

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

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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. 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, Missouri Register (44 MoReg 2676–2677). This emergency amendment was filed December 17, 2019, becomes effective January 2, 2020, and expires June 29, 2020.

(1) All industrial hemp [varieties planted and cultivated] lots produced within a [plot] 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) Registered growers must collect samples in accordance with the department’s sampling protocol within fifteen (15) days prior to harvest.

(3) Each variety of industrial hemp must be analyzed by an independent testing laboratory for analysis for delta-9 THC concentration on a dry weight basis.

(4) Sampled plant material from multiple varieties shall not be commingled.

(5) One (1) duplicate composite sample of each variety of industrial hemp must be collected and retained by the registered grower in accordance with established department protocols, to be analyzed if the original composite sample certificate of analysis reports greater than three-tenths of one percent (0.3%) delta-9 THC concentration on a dry weight basis.

(6) Registered growers 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 date of analysis.

(A) Registered growers must provide to a registered handler or processor a copy of each certificate of analysis for each variety of industrial hemp distributed or sold.

(B) Registered growers must submit to the department, within three (3) business days of receipt, copies of all certificates of analysis showing noncompliance, the registered grower will submit the retained duplicate composite sample for that variety from the same plot of land to be immediately delivered to the independent testing laboratory for analysis.

(C) Registered growers must submit to the department, within three (3) business days of receipt, each duplicate composite certificate of analysis. The department will issue to the registered grower an order for destruction for the specific industrial hemp testing out of compliance. Destruction must be completed by the registered grower within ten (10) days of receipt of the department’s order for destruction.

1. The registered grower must maintain a destruction report.

2. The registered grower must submit a copy of the destruction report to the department within three (3) days of crop destruction and the department will notify the Missouri Highway Patrol and local law enforcement of crop destruction.

(7) Registered growers are financially responsible for all costs associated with contracting laboratory services, sample collection, delivery of samples to the independent testing laboratory, and laboratory analysis.

(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) Meet the requirements of a state and federal fingerprint criminal history background check listed in 2 CSR 70-17.030;

(D) Submit a certified industrial hemp sampler application;
(E) Submit a non-refundable application fee of $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.

(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 accept-

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 cost private entities an estimated two thousand five hundred dollars ($2,500) for the duration of the emergency.
Emergency Rules

FISCAL NOTE
PRIVATE COST

I. Department Title: 2 -- Department of Agriculture
Division Title: 70 -- Plant Industries
Chapter Title: 17 -- Industrial Hemp

<table>
<thead>
<tr>
<th>Rule Number and Title:</th>
<th>2 CSR 70-17.100 Sampling Requirements</th>
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<tbody>
<tr>
<td>Type of Rulemaking:</td>
<td>Emergency Amendment</td>
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II. SUMMARY OF FISCAL IMPACT

<table>
<thead>
<tr>
<th>Estimate of the number of entities by class which would likely be affected by the adoption of the rule.</th>
<th>Classification of business entities which would likely be affected</th>
<th>Estimate in the aggregate as to the cost of compliance with the rule by the affected entities.</th>
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<tbody>
<tr>
<td>100</td>
<td>Certified Industrial Hemp Samplers</td>
<td>$2,500 for the duration of the emergency</td>
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III. WORKSHEET

100 Certified Industrial Hemp Samplers $50/application  = $5,000/year
Emergency rate duration = 6 months or 0.5 years
$5,000 X 0.5 year = $2,500 for the duration of the emergency

IV. ASSUMPTIONS

It is assumed that 100 persons will apply for a Certified Industrial Hemp Sampler certification. The application fee established in the rule is $50/application.