EMERGENCY AMENDMENT

2 CSR 70-17.110 Industrial Hemp Plant Monitoring System

[Records, Reports, and Data Maintained for Cultivating, Sampling, Certificates of Analysis, Storing, Processing, Destruction, and Sale or Distribution of Industrial Hemp]

Requirements. The department is amending the title, purpose, sections (1)–(3), and adding section (4).

PURPOSE: This amendment updates requirements for the industrial hemp plant monitoring system.

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

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 until after 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 2677–2679). This emergency amendment was filed December 17, 2019, becomes effective January 2, 2020, and expires June 29, 2020.

(1) All registered [growers and handlers] 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, [processing,] 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 [at a reasonable time] 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) [Contents of an Industrial Hemp Plant Monitoring System include] Registered producers shall maintain the following:

(A) Planting Reports—
1. Registered [growers] producers must record, within [ten (10)] thirty (30) days of planting, a planting report, including the replanting of seeds or propagules on a [plot] parcel of land. For each industrial hemp [variety] lot planted, the planting report shall contain:
   A. GPS coordinates for the [plot] parcel of land;
   B. The number of acres or square footage of each variety planted;
   C. The GPS coordinates for each [variety] lot planted; and
   D. The seed bag label or tag, bulk seed certificate, [and/or complete variety name of] bill of lading/invoice for propagule(s), or documentation stating the origin of the industrial hemp.

(B) Sample Analysis Reports—
1. Certificates of analysis [must be kept and maintained] for all industrial hemp [varieties] lots sampled by a certified sampler and tested by [an independent] a testing laboratory. Certificates of analysis must be kept [and maintained] for a period of three (3) years from date of analysis.

2. Documentation of the registered grower notification to the department for all certificates of analysis showing a delta-9 THC concentration in excess of three-tenths of one percent (0.3%) on a dry weight basis.

3. Documentation verifying that copies of certificates of analysis were provided for each industrial hemp variety distributed or sold to a registered handler or processor.

(C) Destruction Reports—
1. [Within three (3)] Within thirty (30) days of crop destruction the registered [grower] producer must produce a destruction report, including, that includes the:
   A. Copy of the department’s order of destruction or a written statement justifying the destruction of [an industrial hemp crop] the lot;
   B. [Number of acres of each variety] Amount destroyed;
   C. Date(s) of destruction; and
   D. Method of destruction.

(D) Harvest Reports—
1. [Within ten (10)] Within thirty (30) days of harvest, the registered [grower] producer must produce [for each industrial hemp variety harvested,] a harvest report including:
   A. Date of harvest for each [variety] lot;
   B. Number of acres or square footage of each [variety] lot harvested;
   C. Amount of each industrial hemp [variety] lot harvested; and
   D. Location of viable seed storage[,].

E. Date and amount of industrial hemp transferred to each registered handler or processor; and

F. Name of registered handler or processor, handler registration number and registration expiration date, and processing facility location address.

(E) Handling Reports—
1. [Within ten (10)] Within ten (10) days of purchase, storage, disposal, or processing, the registered handler must produce:
   A. Copies of industrial hemp purchasing agreements with registered growers;
B. Copies of all certificates of analysis for all industrial hemp varieties obtained from registered growers;
C. Inventory reports of each variety of industrial hemp being stored and processed, including:
   (I) Date of inventory;
   (II) Location of stored inventory;
   (III) Total amount of industrial hemp and seed of each variety;
   (IV) Total amount of unusable industrial hemp and seed of each variety; and
   (V) Name, signature, and title of the employee performing inventory.
D. Disposal records for all unusable industrial hemp and seed, including the following:
   (I) Date of disposal;
   (II) Amount of industrial hemp disposed;
   (III) Disposal or destruction method;
   (IV) Location of disposal or destruction;
   (V) Complete variety name; and
   (VI) Name, signature, and title of employee responsible for disposal or destruction.
E. Processing records, including the following:
   (I) List of products produced from industrial hemp;
   (II) Address or location of processing facility;
   (III) List of buyers, if sold, including:
       (a) Name, address, and phone number of buyer;
       (b) Products purchased;
       (c) Quantity of each product purchased; and
       (d) Date of distribution.
F. Seed Reports—
   1. Within ten (10) days of storing, distributing, or selling agricultural hemp seed, a registered grower or handler with an agricultural hemp seed production permit must produce:
      A. Amount of each variety of agricultural hemp seed the registered grower is retaining from the current season’s crop for next year’s planting;
      B. Amount of each variety of industrial hemp in the registered handler’s inventory and documentation verifying the origin of the agricultural hemp seed;
   C. Distribution and Sales records—
      (I) Name, address, phone number, registration number, and registration expiration date of the registered grower distributing or selling agricultural hemp seed;
      (II) Date of transaction, sale, or distribution;
      (III) Complete variety name;
      (IV) Amount of each variety sold or distributed; and
      (V) Name, address, registration number, registration expiration date, and phone number of registered grower to whom the agricultural hemp seed was distributed or sold.
(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.


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.