



Eric Milstead
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Senators GUTHRIE, Den Hartog, Jordan and,
Representatives BOYLE, Troy, Toone

FROM: Katharine Gerrity - Deputy Division Manager

DATE: April 02, 2020

SUBJECT: Temporary Rule

IDAPA 02.01.06 - Rules Governing the Labeling of Hemp Receptacles (New Chapter) - Adoption of
Temporary Rule - Docket No. 02-0106-2002

We are forwarding this temporary rule to you for your information only. No analysis was done by LSO. This rule is posted on our web site. If you have any questions, please call Katharine Gerrity at the Legislative Services Office at (208) 334-4845. Thank you.

Attachment: Temporary Rule

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
www.legislature.idaho.gov

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.01.06 – RULES GOVERNING THE LABELING OF HEMP RECEPTACLES
DOCKET NO. 02-0106-2002 (NEW CHAPTER)
NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is March 20, 2020.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 22-103 and 22-702, Idaho Code, [Executive Order No. 2019-13](#), and the 2018 Farm Bill.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

These rules govern the requirements for the labeling of hemp receptacles for transportation of hemp through the state of Idaho.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The ISDA was directed by executive order to promulgate these rules because executive action is needed to temporarily resolve the conflict between state and federal law with respect to interstate transportation of hemp until a more permanent solution on interstate transportation and production is enacted by the Legislature.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Chanel Tewalt, Chief Operating Officer, (208) 332-8615.

Dated this 19th day of March, 2020.

Chanel Tewalt
Chief Operating Officer
Idaho State Department of Agriculture
2270 Old Penitentiary Road
PO Box 7249
Boise, Idaho 83707
Phone (208) 332-8615
Fax (208) 33-2170

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 02-0106-2002
(New Chapter)

02.01.06 – RULES GOVERNING THE LABELING OF HEMP RECEPTACLES

000. LEGAL AUTHORITY.

01. General. The Director of the Idaho State Department of Agriculture has general rulemaking authority on farm products, receptacles, and labels pursuant to Sections 22-103(7) and 22-702, Idaho Code. (3-20-20)T

02. Specific. By Executive Order No. 2019-13, the Director of the Idaho State Department of Agriculture was directed by the Governor to engage in rulemaking concerning hemp transportation through the State of Idaho, in light of the 2018 Farm Bill. (3-20-20)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is “Rules Governing the Labeling of Hemp Receptacles.” (3-20-20)T

02. Scope. These rules govern the requirements for the labeling of hemp receptacles for transportation of hemp through the state of Idaho. (3-20-20)T

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. 2014 Farm Bill. The Agricultural Act of 2014. Pub. Law No. 113-79, 128 Stat. 649. (3-20-20)T

02. 2018 Farm Bill. The Agricultural Improvement Act of 2018. Pub. Law No. 115-334, 132 Stat. 4490. (3-20-20)T

03. Bill of Lading. A shipping document containing the shipment contents, origination, including lot number, and destination of the farm product, the weight of the load, and the type of vehicle hauling or transporting the farm product. This form will be available on the Department website, <https://agri.idaho.gov/>. (3-20-20)T

04. Department. The Idaho State Department of Agriculture. (3-20-20)T

05. Driver Affirmation. A form provided by the Department signed by the driver of a vehicle hauling or transporting hemp stating that his or her vehicle contains no illicit drugs or variations of hemp not explicitly authorized by the 2014 Farm Bill or the 2018 Farm Bill. This form will be available on the Department website, <https://agri.idaho.gov/>. (3-20-20)T

06. Entity. As defined in 7 C.F.R. §§990.1. (3-20-20)T

07. Farm Product. As defined in Section 22-701, Idaho Code. (3-20-20)T

08. Hemp. As defined in Section 7 U.S.C. §1639o and as measured in conformance with 7 CFR § 990.25. (3-20-20)T

09. Indian Tribe. As defined in Section 7 U.S.C. §1639o. (3-20-20)T

10. Inspection Report. A report given to transporters upon completion of the hemp inspection at the port of entry or roadside confirming all required documents were presented and whether any samples of the hemp were taken. (3-20-20)T

11. Laboratory Report. A laboratory results report which confirms each lot of hemp complies with the 2014 Farm Bill or the 2018 Farm Bill, as provided in 7 C.F.R. §§990.70(d) and 990.71(d), and which was produced by a DEA-registered laboratory. (3-20-20)T

12. Lawful-Hemp Verification. A written verification that the hemp being transported was produced by a grower or producer duly-licensed by a state or Indian Tribe authorized to regulate hemp production under the 2014 Farm Bill or the 2018 Farm Bill or an equivalent USDA hemp producer license. The hemp production license for the producer of the hemp being transported, or a copy thereof, must be attached. This form will be available on the Department website, <https://agri.idaho.gov/>. (3-20-20)T

13. Lot. As defined in 7 C.F.R. §990.1. (3-20-20)T

14. Peace Officer. As defined in Section 19-5101, Idaho Code. (3-20-20)T

15. Producer. As defined in 7 C.F.R. §990.1. (3-20-20)T

16. Receptacle. Any container in which farm products are held or stored. (3-20-20)T

17. State. As defined in Section 7 U.S.C. §1639o. (3-20-20)T

18. Transporter. Any person, individual, partnership, corporation, association, grower, farmer, producer or any other entity engaged in hauling, transporting, delivering, otherwise moving hemp in interstate commerce through the state of Idaho. (3-20-20)T

19. Vehicle. As defined in Section 49-123, Idaho Code, when capable of transporting a farm product receptacle. (3-20-20)T

011. ABBREVIATIONS.

01. DEA. The United States Drug Enforcement Administration. (3-20-20)T

02. ISP. The Idaho State Police. (3-20-20)T

03. ITD. The Idaho Transportation Department. (3-20-20)T

04. USDA. The United States Department of Agriculture. (3-20-20)T

012. -- 099. (RESERVED)

100. VERIFICATION OF FARM PRODUCTS.

Any transporter or vehicle carrying one or more receptacles of hemp shall have the affirmative duty to stop at the first port of entry encountered in the state of Idaho to declare the presence of any hemp. No transporter or vehicle carrying receptacles of hemp shall proceed past or travel through an established or temporary port of entry during its hours of operation while transporting hemp without presenting the hemp for inspection. Should the first established or temporary port of entry be closed for operations, the transporter or vehicle must stop at the first available port of entry. (3-20-20)T

101. LABELING.

All receptacles, open or closed, of hemp must be labeled with the name and address of the producer, the quantity of the hemp, and the lot number associated with the hemp. (3-20-20)T

102. DOCUMENTATION REQUIRED.

Receptacles of hemp shall be inspected and documentation will be reviewed for the purpose of showing and preventing deception in the name and address of the producer, the quantity, and nature of the product. All receptacles of hemp must be labeled in accordance with Section 101 of these rules and be accompanied by a written, legible record attesting to the compliance of the farm product to the 2014 Farm Bill or the 2018 Farm Bill by including: (3-20-20)T

- 01. Driver Affirmation;** (3-20-20)T
- 02. Lawful-Hemp Verification;** (3-20-20)T
- 03. Laboratory Report; and** (3-20-20)T
- 04. Bill of Lading.** (3-20-20)T

103. INSPECTION REPORT.

Once the hemp inspection is complete at the port of entry or roadside, hemp transporters will be given an inspection report. (3-20-20)T

104. DELEGATION.

The Department may contract with the ISP and the ITD or other state agency as necessary to efficiently carry out these rules. (3-20-20)T

105. EFFECTIVE DATE.

These rules are effective upon adoption. These rules apply prospectively and nothing within these rules shall authorize or be interpreted to apply to hemp transported in the State of Idaho prior to these rules being adopted. (3-20-20)T

106. -- 999. (RESERVED)