Dear Senators Nichols, Zito, Semmelroth, and
Representatives Raymond, Shirts, Mathias:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Department of Agriculture:
IDAPA 02.01.07 - Rules Governing Hemp-Proposed Rule (Docket No. 02-0107-2601).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative Services. The final date to call a meeting on the enclosed rules is no later than 11/09/2026. If a meeting is called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/07/2026.

The germane joint subcommittee may request a statement of economic impact with respect to a proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement, and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the memorandum attached below.

Terri Kondeff
Director

Legislative Services Office
Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Agricultural Affairs Committee and the House Agricultural Affairs Committee

FROM: Legislative Drafting Attorney - Alli Olson

DATE: October 22, 2026

SUBJECT: Department of Agriculture

IDAPA 02.01.07 - Rules Governing Hemp-Proposed Rule (Docket No. 02-0107-2601)

Summary and Stated Reasons for the Rule

The Idaho Department of Agriculture submits notice of proposed rulemaking for the rules governing hemp, IDAPA 02.01.07. ISDA states that purpose of the rulemaking is to make the rule consistent with changes approved by the Idaho Legislature in the 2026 session pertaining to oversight of retail sale of hemp derived products for human consumption (H 772) and non-negligent hemp production violations (H 879). The Department also states that since the statute expanded the Department's oversight authority into the retail space, fees for retailers of hemp derived products are necessary.

Negotiated Rulemaking / Fiscal Impact

ISDA states that negotiated rulemaking was conducted and notice was published in the July 1, 2026, Idaho Administrative Bulletin, Vol. 26-7, pages 37-38.

The Department states that there will not be a negative fiscal impact greater than $10,0000 to the general fund. ISDA notes that it estimates the retail licensure program will generate a net positive of $15,000.

Statutory Authority

The Department appears to have the authority to promulgate this rule pursuant to Section 22-1705, Idaho Code.

cc: Department of Agriculture
Lloyd Knight

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 02 – IDAHO DEPARTMENT OF AGRICULTURE

02.01.07 – RULES GOVERNING HEMP

DOCKET NO. 02-0107-2601 (FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-1705 Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Tuesday, October 20, 2026 **10:00 a.m. (MT)**
In Person **Idaho State Department of Agriculture** **2270 Old Penitentiary Road, Boise, ID 83712** **Virtual:** **https://teams.microsoft.com** **Meeting ID: 248 342 365 236 191** **Passcode: e85LM9NQ** **Dial in by phone** **+1 208-985-2810,,364230543# United States, Boise** **Find a local number** **Phone conference ID: 364 230 543#** **Join on a video conferencing device** **Tenant key: idahogov@m.webex.com** **Video ID: 111 640 201 6**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The scope of the rulemaking will be to make the rule consistent with changes approved by the Idaho Legislature in H.772 and H.879 in the 2026 Session. Those amendments included new language in H.879 related to the retail sale of hemp derived products for human ingestion or inhalation, as well as language in H.772 to clarify non-negligent violations in the production of hemp. The expansion of regulatory authority into the retail space will necessitate fees for retailers of hemp derived products, and the rulemaking will need to include new fees for those retailers. Some additional clarifications in the rule may be made within the rule while it is open to negotiation.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: The proposed new fees for the hemp program are as follows in Section 301:

1. Retailer annual application fee: $100
2. Retailer annual license fee: $1000
3. Retailer modification to application information fee: $100

The “modification to application information” fees for both Producers and Handlers are being reduced to $100 to make the fee consistent across the entire program.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking:

The agency estimates a total of 100 entities will submit applications to be a licensed hemp retailer in Idaho. The fees will generate approximately $110,000 of revenue to the hemp dedicated fund. The program expenses incurred through the personnel, shipping and lab costs necessary to administer the requirements mandated by the hemp program to the 100 newly licensed retailers will total approximately $95,000, which should generate a net positive revenue for the program of $15,000.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 1, 2026 Idaho Administrative Bulletin, Vol. 26-7, page 37-38.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dr. Scott Leibsle, Administrator – Division of Animal Industries at (208) 332-8614.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2026.

DATED this 27th day of August, 2026.

Scott R. Leibsle, DVM
State Veterinarian/Administrator
Division of Animal Industries
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8614
Email: scott.leibsle@isda.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 02-0107-2601
(Only Those Sections With Amendments Are Shown.)

02.01.07 – RULES GOVERNING HEMP

001. SCOPE.
These rules govern the licensing, production, handling, and research of hemp, and the retailing of hemp based products. ~~(3-15-22)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.
In addition to the definitions in 7 CFR Part 990, the USDA Final Hemp Rule, and Section 22-1703, Idaho Code, the following definitions apply to the interpretation and enforcement of these rules: (3-15-22)

01. Accepted Laboratory. A laboratory capable of testing pursuant to rule requirements and which is a state department of agriculture laboratory or a laboratory accredited in accordance with International Organization for Standardization ISO/IEC 17025:2017 and capable of THC quantitation by gas chromatography-mass spectrometry or high-pressure liquid chromatography. The Idaho State Police Forensic Laboratory is excluded from this definition. After December 31, 2022, accepted laboratories also must be registered, or have attempted registration, with the U.S. Drug Enforcement Agency under the Controlled Substances Act, 21 CFR part 1301.13. ~~(3-15-22)~~( )

02. Acceptable Hemp THC Level for Licensed Producers. The total delta-9 tetrahydrocannabinol content of hemp on a dry weight basis, that, when reported with the measurement of uncertainty, produces a range that includes a result of three-tenths percent (0.3%) total tetrahydrocannabinol or less, as defined in the 2018 Farm Bill. ~~(3-15-22)~~( )

03. Department. The Idaho State Department of Agriculture. (3-15-22)

04. Entity. A corporation, general partnership, joint stock company, association, limited partnership, limited liability partnership, limited liability company, series limited liability company, irrevocable trust, estate, charitable organization, other similar organization, or an institution of higher education. (3-15-22)

05. Handler. A handler includes an owner, operator, landlord, or tenant who shares in the risk of manufacturing an end product and who is entitled to share in the product available for marketing from the farm or facility or would have shared had products been produced. A handler may also include, but is not limited to: labs, processing/manufacturing facilities, seed facilities, mobile conditioners or mobile processing/manufacturing facilities. A licensed handler may accept hemp from a licensed (state, Tribe, USDA, or country of origin) producer or handler, provided the procured hemp contains an acceptable THC level of three-tenths percent (0.3%) or less, may act as a broker for hemp, and may sell hemp to licensed producers or licensed handlers. All manufactured or end products must contain no detectable THC. ( )

0~~5~~6. **Harvest**. To cut, gather, take, or remove all or part of hemp plants growing in a lot for the purpose of distribution, disposal, cloning, handling, sale, or any other use. (3-15-22)

07. Hemp Products. All inhalable and/or ingestible hemp products intended for human ingestion or inhalation, excluding nonviable hulled hemp seed, hemp protein powder, or hemp seed oil. ( )

08. In-State Retailer. Any retailer with a physical, mobile, or online establishment within the State of Idaho that may offer products for in-person or online sale. ( )

09. Ingestible. Contents or substances taken into the body by swallowing, absorbing, or otherwise consuming. ( )

10. Inhalable. Contents or substances taken into the body by drawing air, vapor, fumes, gas, or smoke into the lungs through the nose or mouth. ( )

~~06~~11. **Key Participant**. A person who has direct or indirect financial interest in the entity producing or handling hemp, such as an owner or partner in a partnership. A key participant also includes persons in a corporate entity at executive levels. ~~(3-15-22)~~( )

~~07~~12. **License**. A hemp producer or hemp handler, or hemp retailer license issued by the Department. ~~(3-15-22)~~( )

~~08~~13. **Lot**. A contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of hemp throughout. Lots with multiple plantings will be considered separate lots. All lots listed on the application must be removed if no hemp is planted or undergo an inspection and harvest activity prior to the end

of the calendar year. ~~(3-15-22)~~( )

~~09~~14. **Measurement of Uncertainty**. 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. (3-15-22)

15. Out-of-State Retailer. Any retailer with a physical, mobile, or online establishment not within the State of Idaho that may offer products for in-person or online sale. ( )

~~10~~16. **Producer**. A producer includes an owner, operator, landlord, or tenant who shares in the risk of producing a crop and who is entitled to share in the crop available for marketing from the farm or facility, or would have shared had the crop been produced. A producer includes a grower of seed and, if selling seed, may require a seed dealers license from the Department. A licensed producer may accept hemp from a licensed (state, Tribe, USDA, or country of origin) producer or handler, provided the procured hemp contains an acceptable THC level of three-tenths percent (0.3%) or less, may act as a broker for hemp, and may sell hemp to licensed producers or licensed handlers. ~~(3-15-22)~~( )

17. Prohibited Cannabis Products. Any product containing THC, with the exception of biomass pursuant to a producer license as defined by the 2018 farm bill. ( )

18. Retailer. A retailer includes an owner, operator, landlord, or tenant who shares in the risk of selling or distributing hemp products and who is entitled to share in the end hemp product available from marketing from the facility or would have shared had end hemp products been sold or distributed. A retailer or distributor may also include, but is not limited to: physical locations, booths, farmers markets, wholesale, online, digital, or mobile facilities with the intent to distribute and/or sell hemp products. ( )

19. Site. One continuous address containing all facilities in one general area. Any distance between facilities that qualifies as a separate address is regarded as a separate site. ( )

~~11~~20. **Total THC**. The sum of tetrahydrocannabinolic acid and delta-9 tetrahydrocannabinol. (3-15-22)

21. Volunteer Hemp. Hemp that was not intentionally planted by a licensed hemp producer and is the result of a previous year's planting or growing on its own from seed or roots of an intentionally planted hemp lot. Volunteer hemp, if not part of a licensed growing area, must be destroyed and reported to the Department, or added to the current license year. ( )

(BREAK IN CONTINUITY OF SECTIONS)

300. LICENSES.

01. Requirement. Any person or entity shall have an active hemp license from the Department for planting, propagating, producing, handling, ~~or~~ processing, storing, selling, or distributing hemp or hemp products in Idaho. ~~(3-15-22)~~( )

02. Application. An applicant for a producer or handler, or retail license must apply on a form prescribed by the Department. ~~(3-15-22)~~( )

a. Excluding retail applications, ~~A~~an applicant and any key participants must include in the application a criminal history report conducted as a fingerprint background check by the Idaho State Police or Federal Bureau of Investigation completed no more than sixty (60) days before the application submission. ~~(3-15-22)~~( )

b. The Department reserves the right to deny any application for a license. ( )

03. Annual Application Period and Fees. ~~The application period is September 1 through December 31 of each year for the next calendar year, or a late fee of two hundred fifty dollars ($250) applies to each late~~

~~application~~ All current license holders who possess hemp materials or hemp products must have a license in place or have hemp materials and hemp products properly disposed of by January 1 of the upcoming calendar year. All licenses, regardless of when issued, expire December 31 of the license year. Applications must be complete and include a nonrefundable application fee according to Subsection 301.01 of this rule. ~~(3-15-22)~~( )

a. The handler and retailer application period is September 1 through December 31 of each year for the next calendar year, or a late fee of two hundred fifty dollars ($250) applies to each late application. ( )

b. The producer application period is November 1 through March 31 of each year for the next/current calendar year, or a late fee of two hundred fifty dollars ($250) applies to each late application. ( )

04. Application Approval. An applicant will be notified when the application has been approved or denied. Upon notification of approval of a license application, the applicant must remit to the Department the appropriate license fees according to Subsection 301.01 of this rule. Upon receipt of payment of the license fee, the license will be issued. (3-15-22)

05. License Not Transferable. All licenses are non-transferable. (3-15-22)

06. Producer License. A producer license authorizes a person or entity to obtain and possess hemp seed for planting; to cultivate and harvest hemp; to transport their own hemp crop; to dispose of or remediate their own hemp; as well as possess and market plant parts. (3-15-22)

07. Handler License. A handler license authorizes a person or entity to obtain and possess hemp, including seed, for processing but not intended for the license holder's own cultivation. (3-15-22)

08. Retail License. A retail license authorizes a person or entity to obtain and possess (not manufacture) hemp products for the purpose of selling or distributing and not intended for the license holder's own consumption or use. All physical, online, digital, or distribution entities must possess an individual license for each location or site. ( )

0~~8~~9. Ineligibility. No license will be issued to an ineligible person or entity. (3-15-22)

a. A person who has had a hemp license revoked by the Department, USDA, another state, Indian nation, or U.S. territory is ineligible to apply for participation in the hemp program for a period of five (5) years from the date of revocation. (3-15-22)

b. A person who has been convicted of a felony relating to a controlled substance under federal law or the law of any state may not, before the tenth anniversary of the date of the conviction, hold a license, or be a key participant, or be a governing person of a business entity that holds a license unless the person was lawfully growing hemp under the 2014 Farm Bill before December 20, 2018, and whose conviction also occurred before December 20, 2018. (3-15-22)

c. A person who materially falsifies any information contained in a license application to the Department, or submitted an application to the Department, USDA, another state, Indian nation, or U.S. territory with any materially false statements or misrepresentations is ineligible for a license. (3-15-22)

d. A person under the age of eighteen (18) years of age at the time the application is submitted to the Department is ineligible for a license. (3-15-22)

e. A person or entity producing or handling hemp with three (3) negligent violations in a five (5) year period is ineligible to ~~produce hemp~~ obtain a hemp license for a period of five (5) years from the date of the third (3rd) violation. Retail licensees with three (3) negligent violations within a five (5) year period will have their license revoked and may be referred to law enforcement. Any retail licensee with three (3) negligent violations within a five (5) year period that apply for a future license will be denied. ~~(3-15-22)~~( )

~~09~~10. License Expiration. A license is valid from January 1 until December 31 of each year, except for a license issued as a result of a late application which is valid from date of issuance until December 31 of that year.

(3-15-22)

10~~0~~1. **License Amendment**. Any change to the required information on an approved license requires a licensee to submit a license amendment on a form prescribed by the Department within ten (10) business days of the change. Changes may be subject to Subsection 301.01 of this rule. (3-15-22)

11~~2~~2. **Additional Responsibilities**. All license holders must notify the Department of any theft of hemp materials~~, whether growing or not,~~ or hemp products within forty-eight (48) hours of discovery. ~~(3-15-22)~~( )

a. License Accessibility. License must be made available upon request or displayed in a prominent location. ( )

12~~3~~3. **Suspension**. A hemp license may be suspended when a licensee has engaged in conduct violating hemp law or rule, or when a licensee failed to comply with a written order related to a negligent violation. (3-15-22)

a. A suspended license may be restored after a waiting period of one (1) year. (3-15-22)

b. Any person or entity whose license has been suspended may be required to comply with a corrective action plan to fully restore the license. (3-15-22)

13~~4~~4. **Revocation**. A hemp license will be revoked if the licensee: (3-15-22)

a. Pleads guilty to, or is convicted of, any felony related to a controlled substance; or (3-15-22)

b. Made any materially false statement with regard to this rule to the Department with a culpable mental state greater than negligence; or (3-15-22)

c. Was found to be growing cannabis exceeding the acceptable hemp THC level with a culpable mental state greater than negligence; or (3-15-22)

d. Was found to be handling and/or manufacturing prohibited cannabis products as the end product with a culpable mental state greater than negligence; or ( )

e. Was found to be selling, distributing, or transferring prohibited cannabis products with a culpable mental state greater than negligence; or ( )

~~d~~f. Negligently violated law or rule three (3) times in five (5) years. (3-15-22)

14~~5~~5. **No License For Official Duties**. Department employees and law enforcement are not required to have a license for handling hemp in performance of official duties. (3-15-22)

301. FEES.

01. **Licensing and Inspection Fees**. Hemp program fees are as follows: (3-15-22)

Fee Type	~~Grower~~Producer	Handler	Retailer
Annual application	$100	$100	$100
Annual license	$500	$1,000	$1,000/site
Modification to application information	$~~250~~100	$~~500~~100	$100

Fee Type	~~Grower~~Producer	Handler	Retailer
Producer pre-harvest inspection and other inspections	$250/lot + $35/hour for travel to and from site + actual costs for shipping samples		
Handler annual site inspection and other inspections		$500/site + $35/hour for travel to and from site	
Retailer annual site inspection and other inspections			Included in license cost

~~(3-15-22)~~( )

a. Applicants seeking ~~to produce and handle~~ a hemp license may require ~~both~~ multiple license types. The annual application fee is charged only for ~~the first license type~~ one application if multiple applications are submitted within 24 hours. ~~(3-15-22)~~( )

b. Applicants seeking to handle and sell or distribute hemp products may require both license types. The annual application fee is charged only for one (1) application if multiple applications are submitted within twenty-four (24) hours. ( )

c. Applicants seeking to produce, handle, sell, and/or distribute hemp products may require all license types. The annual application fee is charged only for one (1) application if multiple applications are submitted within twenty-four (24) hours. ( )

d. Failure to pay fees associated with a license will result in the license being suspended and/or revoked. No future licenses shall be issued until all prior fees are rectified. ( )

02. Other Costs. Licensees pay the costs of background checks and required testing directly to the entity providing the service. (3-15-22)

302. – 399. (RESERVED)

~~**400. PRODUCER RECORDS.**~~

~~**01. Producer Records.** Producers shall maintain the following records for three (3) years and make them available during normal business hours for the Department to review at the location where hemp is being grown: (3-15-22)~~

~~**a.** All documents related to the information required in the license application; (3-15-22)~~

~~**b.** Source of hemp seed; (3-15-22)~~

~~**c.** Total acreage of industrial hemp planted, harvested, and disposed; (3-15-22)~~

~~**d.** Record of all handlers sold to and quantities sold to each entity; (3-15-22)~~

~~**e.** Variety and strain for each lot; (3-15-22)~~

~~**f.** All records, documents, and forms regarding the disposal or remediation of hemp; (3-15-22)~~

~~**g.** Copies of all records submitted to the Department, USDA, or law enforcement related to hemp, as well as any supporting documentation. (3-15-22)~~

~~02. Submission of Information to USDA. All license holders shall report to their local USDA FSA office consistent with USDA requirements. (3-15-22)~~

~~401. -- 499. (RESERVED)~~

~~500~~400. INSPECTION OF PRODUCERS.

01. Verification. Inspections may be scheduled by the Department to verify information provided by the licensee. Any growing sites that do not conform to the license must be destroyed or the license must be amended. (3-15-22)

02. Access. The Department shall have access to hemp sites and may enter property where hemp is planted, stored, propagated, produced, or handled for the purpose of inspections, sample collections, testing, or investigation pursuant to Idaho Code and this rule. (3-15-22)

03. Harvest Notification. A producer license holder must submit a sample request form to the Department at least thirty-five (35) days prior to the expected harvest date. (3-15-22)

04. Procedure. The sampling procedure is determined by the Department's Sampling Protocol. Inspections and sampling are subject to Subsection 301.01 of this rule. (3-15-22)

05. Inspection and Sampling. ISDA will conduct inspections and collect samples of each lot not more than thirty (30) days before the hemp is harvested. The industrial hemp may be harvested only after the official sample is collected. The producer licensee or a key participant must be present at the inspection. (3-15-22)

06. Harvest. The license holder will harvest the crop no more than thirty (30) days following the date of sample collection by the Department. (3-15-22)

a. If the licensee fails to complete harvest within thirty (30) days of sample collection, secondary samples of each lot to be harvested must be collected by the Department and submitted for testing. (3-15-22)

i. The license holder must notify the Department of a delay in harvesting by submitting a request form for subsequent sample collection from each lot to be harvested. Additional sampling is subject to Subsection 301.01 of this rule. (3-15-22)

07. Lots Not Commingled. Harvested hemp lots may not be commingled with hemp from other harvested lots or other material. (3-15-22)

08. Movement. No hemp may leave the control of the producer licensee until the licensee receives notification from the Department that the lot complies with this rule. (3-15-22)

09. Producer Records. Producers shall maintain the following records for three (3) years and make them available during normal business hours for the Department to review at the location where hemp is being grown: ( )

a. All documents related to the information required in the license application; ( )

b. Source of hemp seed; ( )

c. Total acreage of industrial hemp planted, harvested, and disposed; ( )

d. Record of all handlers sold to and quantities sold to each entity; ( )

e. Variety and strain for each lot; ( )

f. All records, documents, and forms regarding the disposal or remediation of hemp; and ( )

g. Copies of all records submitted to the Department, USDA, or law enforcement related to hemp, as well as any supporting documentation. ( )

10. Submission of Information to USDA. All license holders shall report to their local USDA FSA office consistent with USDA requirements. ( )

~~501~~401. TRANSPLANTING.

01. Transplanting. To transplant hemp, a producer licensee must submit transplant information with his or her license application or submit a lot change request on a form provided by the agency. (3-15-22)

02. Lots Not Combined. No license will combine multiple transplantation lots into single cultivation lots. ( )

0~~2~~3. Lots Not Divided. No licensee will divide a lot from the initial area of cultivation for transplant into more than one transplantation area for on-farm production. (3-15-22)

0~~3~~4. Transplant Sales. Selling hemp transplants for wholesale or retail requires a producer license and a handler license. (3-15-22)

~~5~~402. – ~~5~~499. (RESERVED)

~~600~~500. INSPECTION OF HANDLERS.

01. Handler Inspection. The Department will inspect all handler locations annually. The licensee or a key participant must be present at the scheduled inspection. The Department may perform random inspections during normal business hours. A sample may be pulled at an inspection. Scheduled handler inspections are subject to Subsection 301.01 of this rule. (3-15-22)

02. Sampling. The Department may collect samples during inspection. ( )

03. Acceptable THC Limits for Handler. All handlers may receive raw industrial hemp with up to three-tenths percent (0.3%) of Delta 9 THC. All manufactured or end products must contain no detectable THC of any kind. ( )

04. Follow-Up Inspections. The Department may conduct follow-up inspections or to investigate complaints. ( )

0~~2~~5. Handler Duties. (3-15-22)

a. The licensee may not acquire or accept hemp from any source other than a person licensed by the Department, the USDA, or a state or tribe with a hemp plan approved by USDA. (3-15-22)

b. Licensed handlers shall not sell, offer, or transfer within Idaho any hemp products not in compliance with Section 37-2701, Idaho Code. (3-15-22)

0~~3~~6. Handler Records. Handlers shall maintain the following records for three (3) years and make them available during normal business hours for the Department to review at the facility where hemp is being handled; (3-15-22)

a. Records of all hemp crop acquisitions with the corresponding producer name, producer address, copy of producer license number, quantity purchased, and transaction date; (3-15-22)

b. Records of all unprocessed hemp sold including name, address, and license number of the person or entity to whom the product was sold in addition to the quantity sold and transaction date; (3-15-22)

c. Records of hemp products made by licensee including description of each type of product, quantity sold, and date of distribution; and (3-15-22)

d. All records regarding the disposal of products exceeding the acceptable hemp THC level. (3-15-22)

501. – 599. (RESERVED)

600. INSPECTION OF RETAILERS.

01. Retail Inspection. The Department will inspect all licensed retailers annually. Any staff member may be present at the time of inspection. The Department may perform random inspections during the licensee's reasonable business hours. ( )

02. Inspection and Sampling. The Department will conduct inspections and may collect samples of retail products. Law enforcement may be notified of prohibited cannabis products. ( )

03. Access. The Department shall have access to physical and digital sites and may enter where hemp products are displayed, stored, sold, distributed, or being demonstrated for the purpose of inspections, sample collections, testing, or investigation pursuant to Idaho Code and this rule. ( )

04. Notification of Law Enforcement. Law enforcement may be notified of prohibited cannabis products. ( )

05. Retailer Duties. License retailers shall not sell, offer, trade, distribute, or transfer within Idaho any prohibited cannabis products. ( )

06. Retailer Records. Retailers shall maintain the following records for three (3) years and make them available during reasonable business hours for the Department to review, where hemp products are being sold or distributed. ( )

a. Records of all hemp product sales, acquisitions, and/or products transferred. ( )

b. All records regarding the disposal or return of prohibited cannabis products. ( )

07. Follow-Up Inspections. The Department may conduct follow-up inspections or to investigate complaints. ( )

601. – 699. (RESERVED)

700. SAMPLES AND TESTING.

01. Producer Sampling Protocol. Sampling will be conducted according to the Department's Sampling Protocol. The Department will send samples to an accepted laboratory selected by the license holder at the time of sampling. The licensee bears the full cost of laboratory testing. ~~(3-15-22)~~( )

02. Laboratory Testing. An accepted laboratory must use appropriate and validated methods and procedures for all testing activities and evaluate the measurement of uncertainty. Samples must be tested using post-decarboxylation or a similarly reliable method by which the total THC concentration level reported accounts for the conversion of THCA into THC. An accepted laboratory will analyze regulatory samples according to the Department's Testing Protocol and the following steps: (3-15-22)

a. Maintain the chain of custody of each sample; (3-15-22)

b. Retain the sample for a minimum of thirty (30) business days from the sample submission date; (3-15-22)

c. Not commingle hemp products or lots from one (1) product or lot with any other hemp ~~from any~~

~~other lot~~ products or lots; ~~(3-15-22)~~( )

d. Send the producer test results of official samples to the Department, license holder and USDA no later than the fifteenth business day from the sample submission date; and ~~(3-15-22)~~( )

e. Determine and report total delta-9 THC concentration level on a dry weight basis, and the measurement of uncertainty must be estimated and reported with the producer test results. ~~(3-15-22)~~( )

f. Retail test results of official samples will be submitted to the Department. ( )

03. Handler and Retailer Sampling Protocol. Sampling may be conducted at each entity or site. The Department will submit samples to the Department-selected laboratory. All sampling and lab costs are subject to 301.01 of this rule. ( )

0~~3~~4. Test Results. Any test result of a sample showing, with acceptable quality control passing, that the total THC content of the sample exceeds the acceptable hemp THC level shall be conclusive evidence that hemp from the lot represented by the sample contains a THC concentration in excess of that allowed. (3-15-22)

a. If the results of a test conclude that the THC levels of a sample exceeds the acceptable hemp THC level, the laboratory will promptly notify the producer, the Department, and the USDA. (3-15-22)

0~~4~~5. ~~Holding for~~ Awaiting Producer Test Results. No hemp may be transferred or enter the stream of commerce until the license holder is notified that the hemp lot sampled and tested is compliant with an acceptable THC level when the application of the measurement of uncertainty is applied. ~~(3-15-22)~~( )

0~~5~~6. Retesting. A license~~d holder~~ producer may request a retest of the original sample within five (5) days from the date the license holder receives notification from the Department of the results of the first test. ~~(3-15-22)~~( )

a. Retests must be performed by the laboratory that conducted the initial test. (3-15-22)

b. The laboratory must use the original sample used in the first test for the retest. (3-15-22)

c. The results of the retest are final. (3-15-22)

07. Handler and Retail Test Results. Any test result of a sample showing, with acceptable quality control passing, that the total THC content of the sample exceeds a non-detectable THC level, shall be conclusive evidence the hemp product lot, batch, date, or identifying factor represented by the sample contains a THC concentration in excess of that allowed and is considered a prohibited cannabis product. ( )

701. – 799. (RESERVED)

800. PRODUCER DISPOSAL.

01. Hemp Above the Acceptable Hemp THC Level for Producer. No more than five (5) calendar days after notification that material from a hemp lot has tested above the acceptable THC level, the licensee must notify the Department of the licensee's decision to either destroy or remediate the entire non-compliant hemp lot and by which method according to the Department's Disposal and Remediation Protocol. ~~(3-15-22)~~( )

02. Disposal. The licensee must dispose of non-compliant hemp with chemical or mechanical destruction to render the material non-retrievable, non-ingestible, and unfit to enter the stream of commerce. (3-15-22)

03. Remediation. Lots may be remediated according to the Department's Disposal and Remediation Protocol. (3-15-22)

a. Remediated hemp will be resampled and retested according to Subsection 500.04 and Section 700

of this rule. Remediated hemp that fails the re-test must be destroyed and is not eligible for additional remediation efforts. (3-15-22)

04. Verification. The Department must inspect and document disposal or remediation of non-compliant hemp. (3-15-22)

05. Other Producer Hemp Disposal. Disposal is required for the any of the following; ~~(3-15-22)~~( )

a. Hemp plants located in an area that is not licensed (to include volunteer hemp), ~~(3-15-22)~~( )

b. Hemp plants not accounted for in required reporting, (to include volunteer hemp) or ~~(3-15-22)~~( )

c. Hemp lots that have been destroyed due to pests, weeds, disease, poor stand, natural disaster, or a weather event such as a flood or hail. (3-15-22)

06. Reporting. All hemp disposed of, for any reason, must be reported to and verified by the Department and may be subject to Subsection 301.01 of this rule. (3-15-22)

07. Costs. All costs for disposal, remediation, and related activities will be paid by the license holder or land owner. (3-15-22)

08. USDA Notification. The Department will provide ~~to~~ the USDA, licensed producer information about non-compliant plants, sites, and related test results. ~~(3-15-22)~~( )

801. – 899. (RESERVED)

900. VIOLATIONS.

01. Sale. It remains unlawful to offer for sale any prohibited cannabis products. ( )

0~~1~~2. Negligent Acts. Negligent acts include: (3-15-22)

a. Failure to provide an accurate legal description of the land or site where hemp ~~is~~ or hemp products are produced, handled, sold, or distributed; ~~(3-15-22)~~( )

b. Failure to obtain a license; ~~or~~ ~~(3-15-22)~~( )

c. ~~Production~~Growing of hemp exceeding the acceptable THC level of three-tenths percent (0.3%), excluding hemp grown for the purpose of producing grain or fiber grown to the federal limit of one percent (1%), and/or the hemp producer made no reasonable effort to grow within the acceptable THC limits. ~~(3-15-22)~~( )

d. Hemp grown with THC in excess of one percent (1%); or ( )

e. Processing or manufacturing of hemp products lab tested and found to exceed the acceptable THC level, also known as prohibited cannabis products. ( )

0~~2~~3. Licensed Producers ~~holders~~ shall not be subject to more than one (1) negligent violation per calendar year. ~~(3-15-22)~~( )

0~~3~~4. Producer and Handler Corrective Actions. Upon any determination that a negligent act related to the growth or handling of hemp has occurred, the Department will institute a corrective action plan which must include: ~~(3-15-22)~~( )

a. A reasonable date to correct the negligent act; and (3-15-22)

b. A requirement to periodically report to the Department regarding compliance with the corrective action plan for a period of not less than two (2) consecutive calendar years. (3-15-22)

04~~.~~5. **Agency Inspection**. The Department will conduct inspections to determine if the corrective action plan was implemented. (3-15-22)

05~~.~~6. **Not Subject to Criminal Enforcement**. As a result of a negligent violation, a ~~licensee~~ licensed producer is not subject to criminal enforcement action as defined in the 2018 farm bill. ~~(3-15-22)~~( )

06~~.~~7. **Non-negligent Violations**. Violations with a culpable mental state greater than negligence, including knowingly growing hemp containing a delta-9-THC concentration that exceeds three-tenths percent (0.3%) on a dry weight basis will be reported by the Department to the Idaho State Police and the U.S. Attorney General. (3-15-22)

07~~.~~8. **Penalties and Procedure**. Penalties, including license suspension or revocation, and due process procedures are governed under Section 22-1705(5), Idaho Code, and the Idaho Administrative Procedure Act, Chapter 52, Title 67, Idaho Code. (3-15-22)

a. Any person who violates or fails to comply with the rules promulgated under this chapter may be assessed a civil penalty by the department or its duly authorized agent of not more than ten thousand dollars ($10,000) for each offense and shall be liable for reasonable attorney's fees. Assessment of a civil penalty may be made in conjunction with any other department administrative action. A political subdivision of the state may request the county prosecuting attorney to bring a civil action to enforce these rules. ( )

08. Handler and Retail Licensees Subject to Criminal Enforcement. All hemp products and prohibited cannabis products have been and will continue to be subject to law enforcement. ( )

901. – 999. (RESERVED)

PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: AGRICULTURE

Agency Contact: Dr. Scott Leibsle **Phone: 208.332.8614**

Date: 9.10.26

IDAPA, Chapter and Title Number and Chapter Name:

IDAPA 02.01.07 – Rules Governing Hemp

Fee Rule Status: ____X__ Proposed _____ Temporary

Rulemaking Docket Number: 02-0107-2601

STATEMENT OF ECONOMIC IMPACT:

The proposed new fees for the hemp program are as follows in Section 301:

1) Retailer annual application fee: $100
2) Retailer annual license fee: $1000
3) Retailer modification to application information fee: $100

The "modification to application information" fees for both Producers and Handlers are being reduced to $100 to make the fee consistent across the entire program.

The agency estimates a total of 100 entities will submit applications to be a licensed hemp retailer in Idaho. The fees will generate approximately $110,000 of revenue to the hemp dedicated fund. The program expenses incurred through the personnel, shipping and lab costs necessary to administer the requirements mandated by the hemp program to the 100 newly licensed retailers will total approximately $95,000, which should generate a net positive revenue for the program of $15,000.