



# State Hemp Plan

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IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 126

BY AGRICULTURAL AFFAIRS COMMITTEE

AN ACT

1 RELATING TO INDUSTRIAL HEMP; AMENDING TITLE 22, IDAHO CODE, BY THE ADDITION  
2 OF A NEW CHAPTER 17, TITLE 22, IDAHO CODE, TO PROVIDE FOR THE INDUSTRIAL  
3 HEMP RESEARCH AND DEVELOPMENT ACT, TO PROVIDE A SHORT TITLE, TO PROVIDE  
4 LEGISLATIVE INTENT, TO DEFINE TERMS, TO PROVIDE FOR A STATE PLAN, TO AU-  
5 THORIZE THE PRODUCTION, PROCESSING, TRANSPORTATION AND RESEARCH OF IN-  
6 DUSTRIAL HEMP, TO PROVIDE FOR THE INDUSTRIAL HEMP ADMINISTRATION FUND,  
7 AND TO PROVIDE EXCEPTIONS; AMENDING SECTION 37-2701, IDAHO CODE, TO RE-  
8 VISE A DEFINITION; AMENDING SECTION 37-2705, IDAHO CODE, TO PROVIDE AN  
9 EXCEPTION; AMENDING CHAPTER 29, TITLE 67, IDAHO CODE, BY THE ADDITION OF  
10 A NEW SECTION 67-2921, IDAHO CODE, TO PROVIDE FOR THE TRANSPORTATION OF  
11 INDUSTRIAL HEMP; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.  
12

13 Be It Enacted by the Legislature of the State of Idaho:

14 SECTION 1. That Title 22, Idaho Code, be, and the same is hereby amended  
15 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-  
16 ter 17, Title 22, Idaho Code, and to read as follows:

17 CHAPTER 17

18 INDUSTRIAL HEMP RESEARCH AND DEVELOPMENT ACT

19 22-1701. SHORT TITLE. This act shall be known and may be cited as the  
20 "Industrial Hemp Research and Development Act."

21 22-1702. LEGISLATIVE INTENT. It is the policy of this state to:

22 (1) Assume primary regulatory authority of industrial hemp as allowed  
23 by federal law;

24 (2) Allow production, processing, transportation, and research of in-  
25 dustrial hemp in Idaho; and

26 (3) Require the director to submit a state plan to the secretary of  
27 agriculture as expeditiously as possible and, by a date certain, to allow the  
28 production of industrial hemp.

29 22-1703. DEFINITIONS. For purposes of this chapter:

30 (1) "2018 farm bill" means the agriculture improvement act of 2018,  
31 P.L. 115-334.

32 (2) "Director" means the director of the Idaho state department of  
33 agriculture.

34 (3) "Hemp" or "industrial hemp" means the plant *Cannabis sativa* L. and  
35 any part of that plant, including the seeds thereof and all derivatives, ex-  
36 tracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether  
37 growing or not, with a delta-9 tetrahydrocannabinol concentration of not  
38 more than three-tenths of one percent (0.3%) on a dry weight basis, as de-  
39 fined in the 2018 farm bill.

1 (4) "Secretary of agriculture" means the United States secretary of  
2 agriculture.

3 22-1704. STATE PLAN. The director must prepare and submit a state plan  
4 as expeditiously as possible, but no later than September 1, 2021, to the  
5 secretary of agriculture in compliance with the 2018 farm bill and the rules  
6 promulgated thereunder. The state plan must be created in consultation with  
7 the governor, the director of the Idaho state police, and Idaho's agricul-  
8 tural industry and must allow for the production, processing, transporta-  
9 tion, and research of industrial hemp in Idaho to the greatest extent allowed  
10 under federal law.

11 22-1705. PRODUCTION, PROCESSING, TRANSPORTATION, AND RESEARCH OF IN-  
12 DUSTRIAL HEMP AUTHORIZED. (1) Production, processing, transportation, and  
13 research of industrial hemp are subject to the rules promulgated under this  
14 chapter, the state plan, and the 2018 farm bill and the rules promulgated  
15 thereunder.

16 (2) The director must expeditiously promulgate rules that are compli-  
17 ant with the 2018 farm bill in time to allow for the production, processing,  
18 transportation, and research of industrial hemp in Idaho under the state  
19 plan beginning with the spring 2022 growing season of industrial hemp. Any  
20 rule formulated and recommended by the Idaho state department of agricul-  
21 ture regarding the production, processing, transportation, or research of  
22 industrial hemp that is broader in scope or more stringent than federal law  
23 or regulations as outlined in the 2018 farm bill or that proposes to regu-  
24 late an activity not regulated by the federal government is subject to the  
25 following additional requirements: the notice of proposed rulemaking and  
26 rulemaking record requirements under chapter 52, title 67, Idaho Code, must  
27 clearly specify that the proposed rule, or portions of the proposed rule,  
28 are broader in scope or more stringent than federal law or regulations or  
29 regulate an activity not regulated by the federal government and delineate  
30 which portions of the proposed rule are broader in scope or more stringent  
31 than federal law or regulations or regulate an activity not regulated by the  
32 federal government.

33 (3) Once a state plan is accepted by the secretary of agriculture, the  
34 production, processing, transportation, and research of industrial hemp in  
35 Idaho will also be subject to the state plan.

36 (4) The department is authorized to promulgate rules establishing fees  
37 and penalties for violations associated with the provisions of this chapter.

38 (5) No penalty may be imposed against a person unless the person was  
39 given notice and opportunity for a hearing pursuant to the Idaho administra-  
40 tive procedure act, chapter 52, title 67, Idaho Code. A person against whom  
41 the department has assessed a penalty under this chapter or the rules pro-  
42 mulgated pursuant to this chapter may, within thirty (30) days of the final  
43 agency action making the assessment, appeal the assessment to the district  
44 court of the county in which the violation is alleged to have occurred.

45 (6) Notwithstanding any provision of this chapter:

46 (a) Rules promulgated under this chapter must be adopted through the  
47 negotiated rulemaking process; and

1 (b) The transportation of industrial hemp in interstate commerce may  
2 continue subject to the provisions of section 67-2921, Idaho Code.

3 22-1706. INDUSTRIAL HEMP ADMINISTRATION FUND. There is hereby estab-  
4 lished in the dedicated fund in the state treasury the industrial hemp ad-  
5 ministration fund to which will be credited the revenues derived from fees  
6 and civil penalties collected as authorized by this chapter and rules pro-  
7 mulgated under this chapter, as well as section 67-2921, Idaho Code, and the  
8 rules promulgated under that section. Moneys in the fund must be used solely  
9 for carrying out the provisions of this chapter and the provisions of section  
10 67-2921, Idaho Code.

11 22-1707. EXCEPTIONS. Industrial hemp is not subject to inspection or  
12 indemnification pursuant to chapter 51, title 22, Idaho Code, or chapters 2  
13 and 5, title 69, Idaho Code.

14 SECTION 2. That Section 37-2701, Idaho Code, be, and the same is hereby  
15 amended to read as follows:

16 37-2701. DEFINITIONS. As used in this chapter:

17 (a) "Administer" means the direct application of a controlled sub-  
18 stance whether by injection, inhalation, ingestion, or any other means, to  
19 the body of a patient or research subject by:

20 (1) A practitioner or, in his presence, by his authorized agent; or

21 (2) The patient or research subject at the direction and in the presence  
22 of the practitioner.

23 (b) "Agent" means an authorized person who acts on behalf of or at the  
24 direction of a manufacturer, distributor or dispenser. It does not include  
25 a common or contract carrier, public warehouseman or employee of the carrier  
26 or warehouseman.

27 (c) "Board" means the state board of pharmacy created in chapter 17, ti-  
28 tle 54, Idaho Code, or its successor agency.

29 (d) "Bureau" means the drug enforcement administration, United States  
30 department of justice, or its successor agency.

31 (e) "Controlled substance" means a drug, substance or immediate pre-  
32 cursor in schedules I through VI of article II of this chapter.

33 (f) "Counterfeit substance" means a controlled substance which, or the  
34 container or labeling of which, without authorization, bears the trademark,  
35 trade name, or other identifying mark, imprint, number or device, or any  
36 likeness thereof, of a manufacturer, distributor or dispenser other than the  
37 person who in fact manufactured, distributed or dispensed the substance.

38 (g) "Deliver" or "delivery" means the actual, constructive, or at-  
39 tempted transfer from one (1) person to another of a controlled substance,  
40 whether or not there is an agency relationship.

41 (h) "Director" means the director of the Idaho state police.

42 (i) "Dispense" means to deliver a controlled substance to an ultimate  
43 user or research subject by or pursuant to the lawful order of a practi-  
44 tioner, including the packaging, labeling, or compounding necessary to  
45 prepare the substance for that delivery.

46 (j) "Dispenser" means a practitioner who dispenses.

1 (k) "Distribute" means to deliver other than by administering or dis-  
2 pensing a controlled substance.

3 (l) "Distributor" means a person who distributes.

4 (m) "Drug" means (1) substances recognized as drugs in the official  
5 United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the  
6 United States, or official National Formulary, or any supplement to any of  
7 them; (2) substances intended for use in the diagnosis, cure, mitigation,  
8 treatment or prevention of disease in man or animals; (3) substances, other  
9 than food, intended to affect the structure or any function of the body of man  
10 or animals; and (4) substances intended for use as a component of any article  
11 specified in clause (1), (2), or (3) of this subsection. It does not include  
12 devices or their components, parts, or accessories.

13 (n) "Drug paraphernalia" means all equipment, products and materi-  
14 als of any kind which are used, intended for use, or designed for use, in  
15 planting, propagating, cultivating, growing, harvesting, manufactur-  
16 ing, compounding, converting, producing, processing, preparing, testing,  
17 analyzing, packaging, repackaging, storing, containing, concealing, in-  
18 jecting, ingesting, inhaling, or otherwise introducing into the human body  
19 a controlled substance in violation of this chapter. It includes, but is not  
20 limited to:

21 (1) Kits used, intended for use, or designed for use in planting, prop-  
22 agating, cultivating, growing or harvesting of any species of plant  
23 which is a controlled substance or from which a controlled substance can  
24 be derived;

25 (2) Kits used, intended for use, or designed for use in manufacturing,  
26 compounding, converting, producing, processing or preparing con-  
27 trolled substances;

28 (3) Isomerization devices used, intended for use, or designed for use  
29 in increasing the potency of any species of plant which is a controlled  
30 substance;

31 (4) Testing equipment used, intended for use, or designed for use in  
32 identifying, or in analyzing the strength, effectiveness or purity of  
33 controlled substances;

34 (5) Scales and balances used, intended for use, or designed for use in  
35 weighing or measuring controlled substances;

36 (6) Diluents and adulterants, such as quinine hydrochloride, mannitol,  
37 mannite, dextrose and lactose, used, intended for use, or designed for  
38 use in cutting controlled substances;

39 (7) Separation gins and sifters used, intended for use, or designed for  
40 use in removing twigs and seeds from, or in otherwise cleaning or refin-  
41 ing, marijuana;

42 (8) Blenders, bowls, containers, spoons and mixing devices used,  
43 intended for use, or designed for use in compounding controlled sub-  
44 stances;

45 (9) Capsules, balloons, envelopes and other containers used, intended  
46 for use, or designed for use in packaging small quantities of controlled  
47 substances;

48 (10) Containers and other objects used, intended for use, or designed  
49 for use in storing or concealing controlled substances;

1 (11) Hypodermic syringes, needles and other objects used, intended  
2 for use, or designed for use in parenterally injecting controlled sub-  
3 stances into the human body;

4 (12) Objects used, intended for use, or designed for use in ingesting,  
5 inhaling, or otherwise introducing marijuana, cocaine, hashish, or  
6 hashish oil into the human body, such as:

7 (i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic  
8 pipes with or without screens, permanent screens, hashish heads,  
9 or punctured metal bowls;

10 (ii) Water pipes;

11 (iii) Carburetion tubes and devices;

12 (iv) Smoking and carburetion masks;

13 (v) Roach clips: meaning objects used to hold burning material,  
14 such as a marijuana cigarette, that has become too small or too  
15 short to be held in the hand;

16 (vi) Miniature cocaine spoons, and cocaine vials;

17 (vii) Chamber pipes;

18 (viii) Carburetor pipes;

19 (ix) Electric pipes;

20 (x) Air-driven pipes;

21 (xi) Chillums;

22 (xii) Bongs;

23 (xiii) Ice pipes or chillers;

24 In determining whether an object is drug paraphernalia, a court or other  
25 authority should consider, in addition to all other logically relevant fac-  
26 tors, the following:

27 1. Statements by an owner or by anyone in control of the object concern-  
28 ing its use;

29 2. Prior convictions, if any, of an owner, or of anyone in control of the  
30 object, under any state or federal law relating to any controlled sub-  
31 stance;

32 3. The proximity of the object, in time and space, to a direct violation  
33 of this chapter;

34 4. The proximity of the object to controlled substances;

35 5. The existence of any residue of controlled substances on the object;

36 6. Direct or circumstantial evidence of the intent of an owner, or of  
37 anyone in control of the object, to deliver it to persons whom he knows,  
38 or should reasonably know, intend to use the object to facilitate a vi-  
39 olation of this chapter; the innocence of an owner, or of anyone in con-  
40 trol of the object, as to a direct violation of this chapter shall not  
41 prevent a finding that the object is intended for use, or designed for  
42 use as drug paraphernalia;

43 7. Instructions, oral or written, provided with the object concerning  
44 its use;

45 8. Descriptive materials accompanying the object which explain or de-  
46 pict its use;

47 9. National and local advertising concerning its use;

48 10. The manner in which the object is displayed for sale;

1 11. Whether the owner, or anyone in control of the object, is a legit-  
 2 imate supplier of like or related items to the community, such as a li-  
 3 censed distributor or dealer of tobacco products;

4 12. Direct or circumstantial evidence of the ratio of sales of the ob-  
 5 ject(s) to the total sales of the business enterprise;

6 13. The existence and scope of legitimate uses for the object in the com-  
 7 munity;

8 14. Expert testimony concerning its use.

9 (o) "Financial institution" means any bank, trust company, savings and  
 10 loan association, savings bank, mutual savings bank, credit union, or loan  
 11 company under the jurisdiction of the state or under the jurisdiction of an  
 12 agency of the United States.

13 (p) "Immediate precursor" means a substance which the board has found  
 14 to be and by rule designates as being the principal compound commonly used or  
 15 produced primarily for use, and which is an immediate chemical intermediary  
 16 used or likely to be used in the manufacture of a controlled substance, the  
 17 control of which is necessary to prevent, curtail or limit manufacture.

18 (q) "Isomer" means the optical isomer, except as used in section  
 19 37-2705(d), Idaho Code.

20 (r) "Law enforcement agency" means a governmental unit of one (1) or  
 21 more persons employed full-time or part-time by the state or a political sub-  
 22 division of the state for the purpose of preventing and detecting crime and  
 23 enforcing state laws or local ordinances, employees of which unit are autho-  
 24 rized to make arrests for crimes while acting within the scope of their au-  
 25 thority.

26 (s) "Manufacture" means the production, preparation, propagation,  
 27 compounding, conversion or processing of a controlled substance, and in-  
 28 cludes extraction, directly or indirectly, from substances of natural  
 29 origin, or independently by means of chemical synthesis, or by a combina-  
 30 tion of extraction and chemical synthesis, and includes any packaging or  
 31 repackaging of the substance or labeling or relabeling of its container,  
 32 except that this term does not include the preparation or compounding of a  
 33 controlled substance:

34 (1) By a practitioner as an incident to his administering, dispensing  
 35 or, as authorized by board rule, distributing of a controlled substance  
 36 in the course of his professional practice; or

37 (2) By a practitioner, or by his authorized agent under his supervi-  
 38 sion, for the purpose of, or as an incident to, research, teaching, or  
 39 chemical analysis and not for delivery.

40 (t) "Marijuana" or "marihuana" means all parts of the plant of the  
 41 genus Cannabis, regardless of species, and whether growing or not; the seeds  
 42 thereof; the resin extracted from any part of such plant; and every compound,  
 43 manufacture, salt, derivative, mixture, or preparation of such plant, its  
 44 seeds or resin. It does not include:

45 (1) Industrial hemp or hemp possessed, grown, transported, farmed,  
 46 produced, processed, or possessed by any other entity engaged in haul-  
 47 ing, transporting, delivering, or otherwise moving hemp in interstate  
 48 or intrastate commerce pursuant to a license granted under the provi-  
 49 sions of the 2014 farm bill, the 2018 farm bill, 7 CFR 990.1 et seq.,  
 50 or the approved state plan for the state of Idaho. "Industrial hemp"

1 or "hemp" means the plant species Cannabis sativa L. and any part of  
2 that plant, including the seeds thereof and all derivatives, extracts,  
3 cannabinoids, isomers, acids, salts, and salts of isomers, whether  
4 growing or not, with a measured total delta-9 tetrahydrocannabinol con-  
5 centration of not more than three-tenths of one percent (0.3%) on a dry  
6 weight or volume basis that shall determine the total delta-9 tetrahy-  
7 drocannabinol (THC) concentration, including both delta-9 tetrahydro-  
8 cannabinol and delta-9 tetrahydrocannabinolic acid (THCA) evaluated  
9 by decarboxylation during analysis, or by measuring each compound and  
10 calculating the total percentage of delta-9 tetrahydrocannabinol if  
11 the THCA was decarboxylated, which must not exceed three-tenths of one  
12 percent (0.3%).

13 (2) The mature stalks of the plant genus Cannabis unless the same  
14 are intermixed with prohibited parts thereof, fiber produced from the  
15 stalks, oil or cake made from the seeds or the achene of such plant, any  
16 other compound, manufacture, salt, derivative, mixture, or preparation  
17 of the mature stalks, except the resin extracted therefrom or where the  
18 same are intermixed with prohibited parts of such plant, fiber, oil, or  
19 cake, or the sterilized seed of such plant which is incapable of germi-  
20 nation.

21 Evidence that any plant material or the resin or any derivative  
22 thereof, regardless of form, that does not meet the definition of "indus-  
23 trial hemp" or "hemp" as provided in this section, or that is possessed  
24 without a license granted under the provisions of the 2014 farm bill, the  
25 2018 farm bill, 7 CFR 990.1 et seq., or the approved state plan for the state  
26 of Idaho, contains any of the chemical substances classified as tetrahydro-  
27 cannabinols shall create a presumption that such material is "marijuana" as  
28 defined and prohibited herein.

29 (u) "Narcotic drug" means any of the following, whether produced di-  
30 rectly or indirectly by extraction from substances of vegetable origin, or  
31 independently by means of chemical synthesis, or by a combination of extrac-  
32 tion and chemical synthesis:

33 (1) Opium and opiate, and any salt, compound, derivative, or prepara-  
34 tion of opium or opiate.

35 (2) Any salt, compound, isomer, derivative, or preparation thereof  
36 which is chemically equivalent or identical with any of the substances  
37 referred to in clause 1, but not including the isoquinoline alkaloids of  
38 opium.

39 (3) Opium poppy and poppy straw.

40 (4) Coca leaves and any salt, compound, derivative, or preparation of  
41 coca leaves, and any salt, compound, isomer, derivative, or preparation  
42 thereof which is chemically equivalent or identical with any of these  
43 substances, but not including decocainized coca leaves or extractions  
44 of coca leaves which do not contain cocaine or ecgonine.

45 (v) "Opiate" means any substance having an addiction-forming or ad-  
46 diction-sustaining liability similar to morphine or being capable of  
47 conversion into a drug having addiction-forming or addiction-sustaining  
48 liability. It does not include, unless specifically designated as con-  
49 trolled under section 37-2702, Idaho Code, the dextrorotatory isomer of

1 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does in-  
2 clude its racemic and levorotatory forms.

3 (w) "Opium poppy" means the plant of the species *Papaver somniferum* L.,  
4 except its seeds.

5 (x) "Peace officer" means any duly appointed officer or agent of a law  
6 enforcement agency, as defined herein, including, but not limited to, a duly  
7 appointed investigator or agent of the Idaho state police, an officer or em-  
8 ployee of the board of pharmacy, who is authorized by the board to enforce  
9 this chapter, an officer of the Idaho state police, a sheriff or deputy sher-  
10 iff of a county, or a marshal or policeman of any city.

11 (y) "Person" means individual, corporation, government, or governmen-  
12 tal subdivision or agency, business trust, estate, trust, partnership or as-  
13 sociation, or any other legal entity.

14 (z) "Poppy straw" means all parts, except the seeds, of the opium poppy,  
15 after mowing.

16 (aa) "Practitioner" means:

17 (1) A physician, dentist, veterinarian, scientific investigator, or  
18 other person licensed, registered or otherwise permitted to distrib-  
19 ute, dispense, conduct research with respect to or to administer a  
20 controlled substance in the course of his professional practice or re-  
21 search in this state;

22 (2) A pharmacy, hospital, or other institution licensed, registered,  
23 or otherwise permitted to distribute, dispense, conduct research with  
24 respect to or to administer a controlled substance in the course of its  
25 professional practice or research in this state.

26 (bb) "Prescribe" means a direction or authorization permitting an ulti-  
27 mate user to lawfully obtain or be administered controlled substances.

28 (cc) "Prescriber" means an individual currently licensed, registered  
29 or otherwise authorized to prescribe and administer controlled substances  
30 in the course of professional practice.

31 (dd) "Production" includes the manufacture, planting, cultivation,  
32 growing, or harvesting of a controlled substance.

33 (ee) "Simulated controlled substance" means a substance that is not a  
34 controlled substance, but which by appearance or representation would lead  
35 a reasonable person to believe that the substance is a controlled substance.  
36 Appearance includes, but is not limited to, color, shape, size, and markings  
37 of the dosage unit. Representation includes, but is not limited to, repre-  
38 sentations or factors of the following nature:

39 (1) Statements made by an owner or by anyone else in control of the sub-  
40 stance concerning the nature of the substance, or its use or effect;

41 (2) Statements made to the recipient that the substance may be resold  
42 for inordinate profit; or

43 (3) Whether the substance is packaged in a manner normally used for il-  
44 licit controlled substances.

45 (ff) "State," when applied to a part of the United States, includes any  
46 state, district, commonwealth, territory, insular possession thereof, and  
47 any area subject to the legal authority of the United States of America.

48 (gg) "Ultimate user" means a person who lawfully possesses a controlled  
49 substance for his own use or for the use of a member of his household or for  
50 administering to an animal owned by him or by a member of his household.

1 (hh) "Utility" means any person, association, partnership or corpora-  
2 tion providing telephone and/or communication services, electricity, natu-  
3 ral gas or water to the public.

4 SECTION 3. That Section 37-2705, Idaho Code, be, and the same is hereby  
5 amended to read as follows:

6 37-2705. SCHEDULE I. (a) The controlled substances listed in this sec-  
7 tion are included in schedule I.

8 (b) Any of the following opiates, including their isomers, esters,  
9 ethers, salts, and salts of isomers, esters, and ethers, unless specifically  
10 excepted, whenever the existence of these isomers, esters, ethers and salts  
11 is possible within the specific chemical designation:

- 12 (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-pip-  
13 eridiny]l)-N-phenylacetamide);
- 14 (2) Acetylmethadol;
- 15 (3) Acetyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylac-  
16 etamide);
- 17 (4) Acryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacry-  
18 lamide);
- 19 (5) Allylprodine;
- 20 (6) Alphacetylmethadol (except levo-alphacetylmethadol also known as  
21 levo-alpha-acetylmethadol, levomethadyl acetate or LAAM);
- 22 (7) Alphameprodine;
- 23 (8) Alphamethadol;
- 24 (9) Alpha-methylfentanyl;
- 25 (10) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-  
26 piperidiny]l)-N-phenylpropanamide);
- 27 (11) Benzethidine;
- 28 (12) Betacetylmethadol;
- 29 (13) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperid-  
30 inyl]l)-N-phenylpropanamide);
- 31 (14) Beta-hydroxy-3-methylfentanyl (N-(1-(2-hydroxy-2-phenethyl)-3-  
32 methyl-4-piperidiny]l)-N-phenylpropanamide);
- 33 (15) Betameprodine;
- 34 (16) Betamethadol;
- 35 (17) Betaprodine;
- 36 (18) Clonitazene;
- 37 (19) Cyclopentyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylcy-  
38 clopentanecarboxamide);
- 39 (20) Cyclopropyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylcy-  
40 clopropanecarboxamide);
- 41 (21) Dextromoramide;
- 42 (22) Diampromide;
- 43 (23) Diethylthiambutene;
- 44 (24) Difenoxyin;
- 45 (25) Dimenoxadol;
- 46 (26) Dimepheptanol;
- 47 (27) Dimethylthiambutene;
- 48 (28) Dioxaphetyl butyrate;
- 49 (29) Dipipanone;

- 1 (30) Ethylmethylthiambutene;  
2 (31) Etonitazene;  
3 (32) Etoxeridine;  
4 (33) Fentanyl-related substances. "Fentanyl-related substances"  
5 means any substance not otherwise listed and for which no exemption or  
6 approval is in effect under section 505 of the federal food, drug, and  
7 cosmetic act, 21 U.S.C. 355, and that is structurally related to fen-  
8 tanyl by one (1) or more of the following modifications:  
9 i. Replacement of the phenyl portion of the phenethyl group by any  
10 monocycle, whether or not further substituted in or on the monocy-  
11 cle;  
12 ii. Substitution in or on the phenethyl group with alkyl, alkenyl,  
13 alkoxy, hydroxyl, halo, haloalkyl, amino, or nitro groups;  
14 iii. Substitution in or on the piperidine ring with alkyl,  
15 alkenyl, alkoxy, ester, ether, hydroxyl, halo, haloalkyl, amino,  
16 or nitro groups;  
17 iv. Replacement of the aniline ring with any aromatic monocycle,  
18 whether or not further substituted in or on the aromatic monocy-  
19 cle; and/or  
20 v. Replacement of the N-propionyl group by another acyl group;  
21 (34) 4-Fluoroisobutyryl fentanyl (N-(4-fluorophenyl)-N-(1-  
22 phenethylpiperidin-4-yl)isobutyramide);  
23 (35) Furanyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-  
24 2-carboxamide);  
25 (36) Furethidine;  
26 (37) Hydroxypethidine;  
27 (38) Isobutyryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-  
28 phenylisobutyramide);  
29 (39) Ketobemidone;  
30 (40) Levomoramide;  
31 (41) Levophenacymorphan;  
32 (42) 3-Methylfentanyl;  
33 (43) 3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-pip-  
34 eridinyl]-N-phenylpropanamide);  
35 (44) Morpheridine;  
36 (45) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);  
37 (46) MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine);  
38 (47) Noracymethadol;  
39 (48) Norlevorphanol;  
40 (49) Normethadone;  
41 (50) Norpipanone;  
42 (51) Ocfentanil (N-(2-fluorophenyl)-2-methoxy-N-(1-phenethylpiperi-  
43 din-4-yl)acetamide);  
44 (52) Para-chloroisobutyryl fentanyl (N-(4-chlorophenyl)-N-(1-  
45 phenethylpiperidin-4-yl)isobutyramide);  
46 (53) Para-fluorobutyryl fentanyl (N-(4-fluorophenyl)-N-(1-  
47 phenethylpiperidin-4-yl)butyramide);  
48 (54) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-  
49 piperidinyl]propanamide);

- 1 (55) Para-methoxybutyryl fentanyl (N-(4-methoxyphenyl)-N-(1-  
2 phenethylpiperidin-4-yl) butyramide);  
3 (56) PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);  
4 (57) Phenadoxone;  
5 (58) Phenampromide;  
6 (59) Phenomorphan;  
7 (60) Phenoperidine;  
8 (61) Piritramide;  
9 (62) Proheptazine;  
10 (63) Properidine;  
11 (64) Propiram;  
12 (65) Racemoramide;  
13 (66) Tetrahydrofuranyl fentanyl (N-(1-phenethylpiperidine-4-yl)-N-  
14 phenyltetrahydrofuran-2-carboxamide);  
15 (67) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-  
16 propanamide);  
17 (68) Tilidine;  
18 (69) Trimeperidine;  
19 (70) u-47700 (3,4-Dichloro-N-[2-(dimethylamino)cyclohexyl]-N-  
20 methylbenzamide);  
21 (71) Valeryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylpen-  
22 tanamide).
- 23 (c) Any of the following opium derivatives, their salts, isomers and  
24 salts of isomers, unless specifically excepted, whenever the existence of  
25 these salts, isomers and salts of isomers is possible within the specific  
26 chemical designation:
- 27 (1) Acetorphine;  
28 (2) Acetyldihydrocodeine;  
29 (3) Benzylmorphine;  
30 (4) Codeine methylbromide;  
31 (5) Codeine-N-Oxide;  
32 (6) Cyprenorphine;  
33 (7) Desomorphine;  
34 (8) Dihydromorphine;  
35 (9) Drotebanol;  
36 (10) Etorphine (except hydrochloride salt);  
37 (11) Heroin;  
38 (12) Hydromorphanol;  
39 (13) Methyldesorphine;  
40 (14) Methyldihydromorphine;  
41 (15) Morphine methylbromide;  
42 (16) Morphine methylsulfonate;  
43 (17) Morphine-N-Oxide;  
44 (18) Myrophine;  
45 (19) Nicocodeine;  
46 (20) Nicomorphine;  
47 (21) Normorphine;  
48 (22) Pholcodine;  
49 (23) Thebacon.

1 (d) Hallucinogenic substances. Any material, compound, mixture or  
2 preparation which contains any quantity of the following hallucinogenic  
3 substances, their salts, isomers and salts of isomers, unless specifically  
4 excepted, whenever the existence of these salts, isomers, and salts of iso-  
5 mers is possible within the specific chemical designation (for purposes of  
6 this paragraph only, the term "isomer" includes the optical, position and  
7 geometric isomers):

8 (1) Dimethoxyphenethylamine, or any compound not specifically  
9 excepted or listed in another schedule that can be formed from  
10 dimethoxyphenethylamine by replacement of one (1) or more hydrogen  
11 atoms with another atom(s), functional group(s) or substructure(s)  
12 including, but not limited to, compounds such as DOB, DOC, 2C-B,  
13 25B-NBOMe;

14 (2) Methoxyamphetamine or any compound not specifically excepted or  
15 listed in another schedule that can be formed from methoxyamphetamine  
16 by replacement of one (1) or more hydrogen atoms with another atom(s),  
17 functional group(s) or substructure(s) including, but not limited to,  
18 compounds such as PMA and DOM;

19 (3) 5-methoxy-3,4-methylenedioxy-amphetamine;

20 (4) 5-methoxy-N,N-diisopropyltryptamine;

21 (5) Amphetamine or methamphetamine with a halogen substitution on the  
22 benzyl ring, including compounds such as fluorinated amphetamine and  
23 fluorinated methamphetamine;

24 (6) 3,4-methylenedioxy amphetamine;

25 (7) 3,4-methylenedioxymethamphetamine (MDMA);

26 (8) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-et-  
27 hyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and N-et-  
28 hyl MDA, MDE, MDEA);

29 (9) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hyd-  
30 roxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and N-hyd-  
31 roxy MDA);

32 (10) 3,4,5-trimethoxy amphetamine;

33 (11) 5-methoxy-N,N-dimethyltryptamine (also known as 5-methoxy-3-2[2-  
34 (dimethylamino)ethyl]indole and 5-MeO-DMT);

35 (12) Alpha-ethyltryptamine (some other names: etryptamine, 3-(2-am-  
36 inobutyl) indole);

37 (13) Alpha-methyltryptamine;

38 (14) Bufotenine;

39 (15) Diethyltryptamine (DET);

40 (16) Dimethyltryptamine (DMT);

41 (17) Ibogaine;

42 (18) Lysergic acid diethylamide;

43 (19) Marijuana;

44 (20) Mescaline;

45 (21) Parahexyl;

46 (22) Peyote;

47 (23) N-ethyl-3-piperidyl benzilate;

48 (24) N-methyl-3-piperidyl benzilate;

49 (25) Psilocybin;

50 (26) Psilocyn;

1 (27) Tetrahydrocannabinols or synthetic equivalents of the substances  
 2 contained in the plant, or in the resinous extractives of Cannabis, sp.  
 3 and/or synthetic substances, derivatives, and their isomers with simi-  
 4 lar chemical structure such as the following:

5 i. Tetrahydrocannabinols, except for the permitted amount of  
 6 tetrahydrocannabinol found in industrial hemp:

7 a.  $\Delta^1$  cis or trans tetrahydrocannabinol, and their opti-  
 8 cal isomers, excluding dronabinol in sesame oil and encapsu-  
 9 lated in either a soft gelatin capsule or in an oral solution  
 10 in a drug product approved by the U.S. Food and Drug Adminis-  
 11 tration.

12 b.  $\Delta^6$  cis or trans tetrahydrocannabinol, and their optical  
 13 isomers.

14 c.  $\Delta^{3,4}$  cis or trans tetrahydrocannabinol, and its optical  
 15 isomers. (Since nomenclature of these substances is not in-  
 16 ternationally standardized, compounds of these structures,  
 17 regardless of numerical designation of atomic positions are  
 18 covered.)

19 d. [(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2methyl-  
 20 octan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-  
 21 1-ol)], also known as 6aR-trans-3-(1,1-dimethylhep-  
 22 tyl)-6a,7,10,10a-tetrahydro-1-hydroxy-6,6-dimethyl-6H-  
 23 dibenzo[b,d]pyran-9-methanol (HU-210) and its geometric  
 24 isomers (HU211 or dexanabinol).

25 ii. The following synthetic drugs:

26 a. Any compound structurally derived from (1H-indole-3-  
 27 yl)(cycloalkyl, cycloalkenyl, aryl)methanone, or (1H-in-  
 28 dole-3-yl)(cycloalkyl, cycloalkenyl, aryl)methane, or  
 29 (1H-indole-3-yl)(cycloalkyl, cycloalkenyl, aryl), methyl  
 30 or dimethyl butanoate, amino-methyl (or dimethyl)-1-oxobu-  
 31 tan-2-yl) carboxamide by substitution at the nitrogen atoms  
 32 of the indole ring or carboxamide to any extent, whether or  
 33 not further substituted in or on the indole ring to any ex-  
 34 tent, whether or not substituted to any extent in or on the  
 35 cycloalkyl, cycloalkenyl, aryl ring(s) (substitution in the  
 36 ring may include, but is not limited to, heteroatoms such as  
 37 nitrogen, sulfur and oxygen).

38 b. N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluo-  
 39 ropentyl)-1 H-indazole-3-carboxamide (5F-AB-PINACA).

40 c. 1-(1.3-benzodioxol-5-yl)-2-(ethylamino)-pentan-1-one  
 41 (N-ethylpentylone, ephylone).

42 d. 1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)-1 H-inda-  
 43 zole-3-carboxamide (4-cn-cumyl-BUTINACA).

44 e. Ethyl 2-(1-(5-fluoropentyl)-1H-indazole-3carboxam-  
 45 ido)-3,3-dimethylbutanoate \* (5f-edmbpinaca).

46 f. (1-(4-fluorobenzyl)-1H-indol-3-yl)(2,2,3,3-tetram-  
 47 ethylcyclopropyl)methanone (fub-144).

48 g. 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-inda-  
 49 zole-3-carboxamide (5f-cumyl-pinaca; sgt25).

- 1 h. (1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1  
2 H-pyrrolo[2.3-B]pyridine-3-carboxamide (5fcumyl-P7AICA).  
3 i. Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxam-  
4 ido)-3-methylbutanoate (MMB-CHMICA, AMB-CHMICA).  
5 j. Methyl 2-(1-(5-fluoropentyl)-1H-indole-3-carboxam-  
6 ido)-3,3-dimethylbutanoate (5f-mdmbpica).  
7 k. N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-  
8 carboxamide (fub-akb48; fub-apinaca).  
9 l. Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-car-  
10 boxylate (NM2201; CBL2201).  
11 m. Any compound structurally derived from 3-(1-naph-  
12 thoyl)pyrrole by substitution at the nitrogen atom of the  
13 pyrrole ring to any extent, whether or not further sub-  
14 stituted in the pyrrole ring to any extent, whether or not  
15 substituted in the naphthyl ring to any extent.  
16 n. Any compound structurally derived from 1-(1-naphthyl-  
17 methyl)indene by substitution at the 3-position of the in-  
18 dene ring to any extent, whether or not further substituted  
19 in the indene ring to any extent, whether or not substituted  
20 in the naphthyl ring to any extent.  
21 o. Any compound structurally derived from 3-pheny-  
22 lacetylindole by substitution at the nitrogen atom of the  
23 indole ring to any extent, whether or not further substi-  
24 tuted in the indole ring to any extent, whether or not sub-  
25 stituted in the phenyl ring to any extent.  
26 p. Any compound structurally derived from 2-(3-hydroxycy-  
27 clohexyl)phenol by substitution at the 5-position of the  
28 phenolic ring to any extent, whether or not substituted in  
29 the cyclohexyl ring to any extent.  
30 q. Any compound structurally derived from 3-(benzoyl)in-  
31 dole structure with substitution at the nitrogen atom of  
32 the indole ring to any extent, whether or not further sub-  
33 stituted in the indole ring to any extent and whether or not  
34 substituted in the phenyl ring to any extent.  
35 r. [2,3-dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrol-  
36 o[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone  
37 (WIN-55,212-2).  
38 s. 3-dimethylheptyl-11-hydroxyhexahydrocannabinol (HU-  
39 243).  
40 t. [(6S, 6aR, 9R, 10aR)-9-hydroxy-6-methyl-3-[(2R)-  
41 5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahy-  
42 drophenanthridin-1-yl]acetate (CP 50,5561).  
43 (28) Ethylamine analog of phencyclidine: N-ethyl-1-phenylcy-  
44 clohexylamine (1-phenylcyclohexyl) ethylamine; N-(1-phenylcy-  
45 clohexyl) ethylamine, cyclohexamine, PCE;  
46 (29) Pyrrolidine analog of phencyclidine: 1-(phenylcyclohexyl) -  
47 pyrrolidine, PCPy, PHP;  
48 (30) Thiophene analog of phencyclidine 1-[1-(2-thienyl)-cyclohexyl]-  
49 piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP;  
50 (31) 1-[1-(2-thienyl) cyclohexyl] pyrrolidine another name: TCPy;

1 (32) Spores or mycelium capable of producing mushrooms that contain  
2 psilocybin or psilocin.

3 (e) Unless specifically excepted or unless listed in another schedule,  
4 any material, compound, mixture or preparation which contains any quantity  
5 of the following substances having a depressant effect on the central ner-  
6 vous system, including its salts, isomers, and salts of isomers whenever the  
7 existence of such salts, isomers, and salts of isomers is possible within the  
8 specific chemical designation:

9 (1) Gamma hydroxybutyric acid (some other names include GHB; gam-  
10 ma-hydroxybutyrate, 4-hydroxybutyrate; 4-hydroxybutanoic acid; sod-  
11 ium oxybate; sodium oxybutyrate);

12 (2) Flunitrazepam (also known as "R2," "Rohypnol");

13 (3) Mecloqualone;

14 (4) Methaqualone.

15 (f) Stimulants. Unless specifically excepted or unless listed in an-  
16 other schedule, any material, compound, mixture, or preparation which con-  
17 tains any quantity of the following substances having a stimulant effect on  
18 the central nervous system, including its salts, isomers, and salts of iso-  
19 mers:

20 (1) Aminorex (some other names: aminoxaphen, 2-amino-5-phenyl-2-ox-  
21 azoline, or 4,5-dihydro-5-phenyl-2-oxazolamine);

22 (2) Cathinone (some other names: 2-amino-1-phenol-1-propanone, alp-  
23 ha-aminopropiophenone, 2-aminopropiophenone and norephedrone);

24 (3) Substituted cathinones. Any compound, except bupropion or com-  
25 pounds listed under a different schedule, structurally derived from  
26 2-aminopropan-1-one by substitution at the 1-position with either  
27 phenyl, naphthyl or thiophene ring systems, whether or not the compound  
28 is further modified in any of the following ways:

29 i. By substitution in the ring system to any extent with alkyl,  
30 alkylendioxy, alkoxy, haloalkyl, hydroxyl or halide sub-  
31 stituents, whether or not further substituted in the ring system  
32 by one (1) or more other univalent substituents;

33 ii. By substitution at the 3-position with an acyclic alkyl sub-  
34 stituent;

35 iii. By substitution at the 2-amino nitrogen atom with alkyl,  
36 dialkyl, benzyl or methoxybenzyl groups, or by inclusion of the  
37 2-amino nitrogen atom in a cyclic structure.

38 (4) Alpha-pyrrolidinoheptaphenone\* (PV8);

39 (5) Alpha-pyrrolidinohexanophenone\* (a-php);

40 (6) 4-chloro-alpha-pyrrolidinovalerophenone\* (4chloro-a-pvp);

41 (7) Fenethylamine;

42 (8) Methcathinone (some other names: 2-(methyl-amino)-propioph-  
43 enone, alpha-(methylamino)-propiophenone, N-methylcathinone, AL-  
44 464, AL-422, AL-463 and UR1423);

45 (9) (+/-)cis-4-methylaminorex [(+/-)cis-4,5-dihydro-4-methyl-5-  
46 phenyl-2-oxazolamine];

47 (10) 4-methyl-alpha-ethylaminopentiophenone\* (4meap);

48 (11) 4'-methyl-alpha-pyrrolidinohexiophenone\* (mphp);

49 (12) N-benzylpiperazine (also known as: BZP, 1-benzylpiperazine);

50 (13) N-ethylamphetamine;

- 1 (14) N-ethylhexedrone\*;  
2 (15) N,N-dimethylamphetamine (also known as: N,N-alpha-trimethyl-  
3 benzeneethanamine).

4 SECTION 4. That Chapter 29, Title 67, Idaho Code, be, and the same is  
5 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
6 ignated as Section 67-2921, Idaho Code, and to read as follows:

7 67-2921. TRANSPORTATION OF INDUSTRIAL HEMP. (1) As used in this sec-  
8 tion:

- 9 (a) "2014 farm bill" means the agriculture act of 2014, P.L. 113-79.  
10 (b) "2018 farm bill" means the agriculture improvement act of 2018,  
11 P.L. 115-334.  
12 (c) "Hemp" or "industrial hemp" means the plant Cannabis sativa L. and  
13 any part of that plant, including the seeds thereof and all derivatives,  
14 extracts, cannabinoids, isomers, acids, salts, and salts of isomers,  
15 whether growing or not, with a delta-9 tetrahydrocannabinol concentra-  
16 tion of not more than three-tenths of one percent (0.3%) on a dry weight  
17 basis, as defined in the 2018 farm bill.  
18 (d) "Peace officer" has the same meaning as provided in section  
19 19-5101, Idaho Code.  
20 (e) "Transporter" means any person, individual, partnership, corpora-  
21 tion, association, grower, farmer, producer, or any other entity en-  
22 gaged in hauling, transporting, delivering, or otherwise moving hemp in  
23 interstate or intrastate commerce.  
24 (f) "Vehicle" has the same meaning as provided in section 49-123, Idaho  
25 Code.

26 (2) Any rule formulated and recommended by the Idaho state police or  
27 the Idaho state department of agriculture regarding the interstate or in-  
28 trastate transportation of hemp by a transporter or vehicle hauling indus-  
29 trial hemp that is broader in scope or more stringent than federal law or reg-  
30 ulations as outlined in the 2014 farm bill and the 2018 farm bill or that pro-  
31 poses to regulate an activity not regulated by the federal government is sub-  
32 ject to the following additional requirements: the notice of proposed rule-  
33 making and rulemaking record requirements under chapter 52, title 67, Idaho  
34 Code, must clearly specify that the proposed rule, or portions of the pro-  
35 posed rule, are broader in scope or more stringent than federal law or regu-  
36 lations or regulate an activity not regulated by the federal government and  
37 delineate which portions of the proposed rule are broader in scope or more  
38 stringent than federal law or regulations or regulate an activity not regu-  
39 lated by the federal government. Such rules must be promulgated and adopted  
40 through the negotiated rulemaking process.

41 (3) When a transporter or vehicle hauling industrial hemp pursuant to a  
42 license under the provisions of the 2014 farm bill, the 2018 farm bill, or 7  
43 CFR 990.1 et seq., is lawfully detained by a peace officer, the transporter  
44 of industrial hemp must consent to inspection of the shipment for the purpose  
45 of ensuring compliance with the 2014 farm bill, the 2018 farm bill, and 7 CFR  
46 990.1 et seq. The peace officer may randomly select reasonably sized samples  
47 not to exceed twenty (20) grams per sampling event for each unique lot, pack-  
48 age, or identified quantity and retain them for future off-sight testing.  
49 Transporters are not entitled to compensation for these de minimis samples.

1 The length of the detention must be only as long as reasonably necessary to  
2 effectuate inspection, sampling, and weighing of industrial hemp.

3 (4) Industrial hemp samples are subject to analysis in a manner consis-  
4 tent with the 2018 farm bill and 7 CFR 990.1 et seq. to determine the total  
5 delta-9 tetrahydrocannabinol (THC) concentration, including all tetrahy-  
6 drocannabinolic acid (THCA). Industrial hemp samples not in compliance with  
7 the 2018 farm bill and 7 CFR 990.1 et seq. may subject the transporter to  
8 criminal penalties for marijuana under chapter 27, title 37, Idaho Code.

9 (5) Violations. It is unlawful for any person to knowingly possess in-  
10 dustrial hemp without a license or in violation of any of the provisions of  
11 the 2014 farm bill, the 2018 farm bill, or 7 CFR 990.1 et seq., except when  
12 lawfully engaged in transporting industrial hemp on behalf of and at the di-  
13 rection of the licensee.

14 (6) Penalties.

15 (a) Any person who pleads guilty to or is found guilty of a violation of  
16 subsection (5) of this section for the first time is guilty of a misde-  
17 meanor and is subject to a fine of no more than one hundred fifty dollars  
18 (\$150).

19 (b) Any person who pleads guilty to or is found guilty of a violation  
20 of subsection (5) of this section for the second time within a period of  
21 five (5) years of the first conviction is guilty of a misdemeanor and is  
22 subject to a fine of no more than three hundred dollars (\$300).

23 (c) Any person who pleads guilty to or is found guilty of a violation of  
24 subsection (5) of this section for the third or subsequent time within  
25 a period of five (5) years of the first conviction is guilty of a mis-  
26 demeanor, punishable by a fine of no more than one thousand dollars  
27 (\$1,000), or by imprisonment in the county jail not to exceed six (6)  
28 months, or by both such fine and imprisonment.

29 (d) Industrial hemp transported or possessed in violation of subsec-  
30 tion (5) of this section is deemed contraband and is subject to seizure  
31 and destruction.

32 (7) When a substance transported and tested pursuant to this section  
33 fails to meet the definition of industrial hemp set forth in this sec-  
34 tion because the test results demonstrate that the substance has a delta-9  
35 tetrahydrocannabinol concentration greater than three-tenths of one per-  
36 cent (0.3%) on a dry weight basis, nothing in this section otherwise inhibits  
37 or restricts any peace officer from enforcing the provisions of chapter 27,  
38 title 37, Idaho Code.

39 (8) The provisions of this section must not be construed to apply to any  
40 material or product derived from industrial hemp that contains no quantity  
41 of delta-9 tetrahydrocannabinol concentration and is not derived from the  
42 prohibited parts of the marijuana plant, as provided in section 37-2701(t),  
43 Idaho Code.

44 (9) This section must not be interpreted to apply to industrial hemp  
45 transported in or through the state of Idaho prior to enactment of this sec-  
46 tion.

47 SECTION 5. SEVERABILITY. The provisions of this act are hereby declared  
48 to be severable, and if any provision of this act or the application of such  
49 provision to any person or circumstance is declared invalid for any reason,

1 such declaration does not affect the validity of the remaining portions of  
2 this act.

3 SECTION 6. An emergency existing therefor, which emergency is hereby  
4 declared to exist, this act shall be in full force and effect on and after its  
5 passage and approval.

## 02.01.07 RULES GOVERNING HEMP

### 000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 22-1702, 22-1703, 22-1704, 22-1705, and 22-1706, Idaho Code. ( )

### 001. SCOPE.

**01. Scope.** These rules govern the licensing, production, handling and research of hemp. ( )

### 002. INCORPORATION BY REFERENCE.

**01. Domestic Hemp Production Program.** 7 CFR Part 990. ( )

**02. USDA Final Hemp Rule.** 86 FR 5596. <https://www.govinfo.gov/content/pkg/FR-2021-01-19/pdf/2021-00967.pdf> ( )

### 003. -- 009. (RESERVED)

### 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: ( )

**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 with the U.S. Drug Enforcement Agency under the Controlled Substances Act, 21 CFR part 1301.13. ( )

**02. Acceptable Hemp THC Level.** 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. ( )

**03. Department.** The Idaho State Department of Agriculture. ( )

**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. ( )

**05. 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. ( )

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

**07. License.** A hemp producer or hemp handler license issued by the Department. ( )

**08. Lot.** A contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of hemp throughout. ( )

**09. 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. ( )

**10. 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. ( )

**11. Total THC.** The sum of tetrahydrocannabinolic acid and delta-9 tetrahydrocannabinol. ( )

**011. ABBREVIATIONS.**

**01. USDA.** The U.S. Department of Agriculture. ( )

**02. THC.** Tetrahydrocannabinol. ( )

**03. FSA.** The U.S. Department of Agriculture Farm Service Agency. ( )

**012. -- 199. (RESERVED)**

**200. DEPARTMENT INFORMATION.**

**01. Department Reporting.** The Department will provide to USDA all hemp information required by federal regulation including a hemp producer report, a hemp disposal report, and an annual state report pursuant to deadlines established by USDA. ( )

**201. -- 299. (RESERVED)**

### 300. LICENSES.

**01. Requirement.** Any person or entity shall have an active hemp license from the Department for planting, propagating, producing, handling or processing hemp in Idaho. ( )

**02. Application.** An applicant for a producer or handler license must apply on a form prescribed by the Department. ( )

**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. ( )

**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 \$250 applies to each late application. Applications must be complete and include a nonrefundable application fee according to section 301.01 of this rule. ( )

**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 section 301.01 of this rule. Upon receipt of payment of the license fee, the license will be issued. ( )

**05. License Not Transferable.** All licenses are non-transferable. ( )

**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. ( )

**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. ( )

**08. Ineligibility.** No license will be issued to an ineligible person or entity. ( )

**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. ( )

**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. ( )

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. ( )

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. ( )

e. A person or entity with three (3) negligent violations in a five (5) year period is ineligible to produce hemp for a period of five (5) years from the date of the third violation. ( )

**09. 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. ( )

**10. 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 10 business days of the change. Changes may be subject to Section 301.01 of this rule. ( )

**11. Additional Responsibilities.** A license holder must notify the Department of any theft of hemp materials, whether growing or not, within forty-eight (48) hours of discovery. ( )

**12. 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. ( )

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

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. ( )

**13. Revocation.** A hemp license will be revoked if the licensee: ( )

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

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

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

d. Negligently violated law or rule three times in five (5) years. ( )

**14. 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. ( )

**301. FEES**

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

Fee Type	Grower	Handler
Annual application	\$100	\$100
Annual license	\$500	\$1,000
Modification to application information	\$250	\$500
Producer pre-harvest inspection and other inspections	\$250/lot + \$35/hour for travel to site + actual costs for shipping samples	
Handler annual site inspection and other inspections		\$500/site + \$35/hour for travel to site

( )

**a.** Applicants seeking to produce and handle hemp require both license types. The annual application fee is charged only for the first license type. ( )

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

**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: ( )

**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; ( )

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

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

## **500. 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. ( )

**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. ( )

**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. ( )

**04. Procedure.** The sampling procedure is determined by the Department's Sampling Protocol. Inspections and sampling are subject to Section 301.01 of this rule. ( )

**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. ( )

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

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. ( )

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 Section 301.01 of this rule. ( )

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

**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. ( )

## 501. 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. ( )

**02. 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. ( )

**03. Transplant Sales.** Selling hemp transplants for wholesale or retail requires a producer license and a handler license. ( )

## 502. -- 599. (RESERVED)

## 600. 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 Section 301.01 of this rule. ( )

**02. Handler Duties.** ( )

**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. ( )

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

**03. 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: ( )

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

**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; ( )

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

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

**700. SAMPLES AND TESTING.**

**01. 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. ( )

**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: ( )

- a. Maintain the chain of custody of each sample; ( )
- b. Retain the sample for a minimum of thirty (30) business days from the sample submission date; ( )
- c. Not commingle hemp from one lot with hemp from any other lot; ( )
- d. Send the 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 ( )
- 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 test results. ( )

**03. 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. ( )

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. ( )

**04. Holding for 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. ( )

**05. Retesting.** A license holder may request a retest of the original sample within five (5) days from the date the license holder receives the results of the first test. ( )

- a. Retests must be performed by the laboratory that conducted the initial test. ( )
- b. The laboratory must use the original sample used in the first test for the retest. ( )
- c. The results of the retest are final. ( )

**800. DISPOSAL**

**01. Hemp above the acceptable hemp THC level.** 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. ( )

**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. ( )

**03. Remediation.** Lots may be remediated according to the Department's Disposal and Remediation Protocol. ( )

a. Remediated hemp will be resampled and retested according to sections 500.04 and 700 of this rule. Remediated hemp that fails the re-test must be destroyed and is not eligible for additional remediation efforts. ( )

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

**05. Other Hemp Disposal.** Disposal is required for the any of the following: ( )

a. Hemp plants located in an area that is not licensed, ( )

b. Hemp plants not accounted for in required reporting, or ( )

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. ( )

**06. Reporting.** All hemp disposed of, for any reason, must be reported to and verified by the Department and may be subject to section 301.01 of this rule. ( )

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

**08. USDA Notification.** The Department will provide to USDA information about non-compliant plants, sites and related test results. ( )

**900. VIOLATIONS.**

**01. Negligent Acts.** Negligent acts include: ( )

**a.** Failure to provide an accurate legal description of land where hemp is produced; ( )

**b.** Failure to obtain a license; or ( )

**c.** Production of hemp exceeding the acceptable THC level. ( )

**02.** License holders shall not be subject to more than one (1) negligent violation per calendar year. ( )

**03. 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: ( )

**a.** A reasonable date to correct the negligent act; and ( )

**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. ( )

**04. Agency Inspection.** The Department will conduct inspections to determine if the corrective action plan was implemented. ( )

**05. Not Subject to Criminal Enforcement.** As a result of a negligent violation, a licensee is not subject to criminal enforcement action. ( )

**06. 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. ( )

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



# **Idaho State Department of Agriculture**

Hemp Production Sampling Protocol

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## Purpose:

1. Standard sampling guidelines are specified for field and greenhouse sampling of hemp.
2. Samples are taken to obtain specimens for the measurement of total tetrahydrocannabinol (THC) content, which determines whether the specimens are hemp or marijuana. The measurements are intended to be representative of the total THC content in a lot of hemp crop acreage as identified in the licensing process. Hemp producers may not harvest hemp prior to the hemp being sampled for THC concentration. Testing protocols are provided in a separate protocol document.

## Scope:

1. Samples collected under this protocol will be submitted to an accepted laboratory for determination of total THC concentration in hemp. After December 31, 2022, all laboratories testing official hemp samples must be registered with the Drug Enforcement Agency (DEA).
2. Since the THC content of hemp generally peaks as the plant ripens, the timing of when sampling occurs is important to accurately measure total THC concentration and monitor compliance with the ISDA hemp program. Harvest shall be completed within 30 days from sample collection.
3. Samples must be collected by ISDA personnel. Hemp producers may not act as official sampling agents. It is the responsibility of the licensed producer to pay any fees associated with sampling.

## Summary or Practice:

1. This practice provides procedures for entering a growing area and collecting the minimum number of plant specimens necessary to represent a homogeneous composition of the lot that is to be sampled. Authorized ISDA personnel enters a growing area, strategically examines the growing area, establishes an approach for navigating the growing area, and collects individual specimens of plants in order to obtain a representative sample of hemp in the designated lot. The ISDA will inspect every hemp lot at least once per year.
2. Cuttings from each lot shall be organized as composite samples. Lot is defined in ISDA's Hemp Rule. In addition, lot refers to the batch of contiguous, homogeneous whole of a product being sold to a single buyer at a single time. The size of the lot is determined by the producer in terms of farm location and field acreage and is to be reported as such to ISDA upon applying for a license.

3. ISDA hemp program personnel will be trained to conduct sampling pursuant to federal regulation as well as state law and rule to ensure compliance with the Idaho State Hemp Plan.

### Equipment and Supplies:

1. Garden pruners/shears (Cleaned prior to and following each composite sample. Some examples of appropriate cleaning agents and supplies to use on garden pruners/shears are bleach, rubbing alcohol, steel wool, and/or sandpaper.)
2. Sample bags, paper.
  - a. The size of the bags will depend upon the number of clippings collected per lot.
  - b. The bags are made from material known to be free from THC.
3. Security tape.
4. Permanent markers.
5. Sample collection forms.
6. GPS Unit.
7. Disposable gloves – Nitrite
8. Ladder

### Sampling Guidelines:

1. The licensee or their designee should be present throughout the sampling process.
2. Surveillance of the growing area:
  - a. The investigator shall verify the GPS coordinates of the growing area as compared with the GPS coordinates submitted by the licensee to ISDA.
  - b. The investigator shall estimate the average height, appearance, approximate density, condition of the plants, and degree of maturity of the inflorescences (flowers/buds).
  - c. The investigator shall visually establish the homogeneity of the stand to establish that the growing area is of like variety.
3. Time of Sampling:

- a. Within 30 days prior to the anticipated harvest of a designated hemp lot, authorized ISDA personnel shall collect representative samples from such cannabis plants for THC concentration level testing.

4. Field Sampling:

- a. For purposes of determining the number of individual plants to select for sampling, the size of the growing area will be considered. For sampling purposes, samples from separate lots must be kept separate and not be comingled.
- b. For lots of less than one acre, including greenhouses, select a minimum of 1 plant, then take a cutting from the plant to form a sample. For lots of 1 to 10 acres, including greenhouses, select a minimum of one plant per acre, then take cuttings of each plant, then combine to form a composite sample.
- c. For growing areas larger than ten (10) acres, including greenhouses, the number of plants that will be selected to form a composite sample is based upon the Codex Alimentarius Recommended Methods of Sampling for the Determination of Pesticide Residues for Compliance with MRLS CAC/GL33-1999.
  - i. The sample size is estimated in a two-step process. The first step is to estimate the number of primary plants to be sampled. The second step is to adjust the estimate of primary plants by the acreage under cultivation.
  - ii. The initial number of primary plants is estimated using

$$n_0 = \frac{\ln(1 - p)}{\ln(1 - i)}$$

where “p” is the confidence level to detect hemp plants testing above the acceptable THC threshold and “i” is the proportion of hemp plants having THC content above the acceptable threshold. The values for “i” are based on past experience in the same or similar growing areas.

- iii. The initial primary plants estimate is adjusted by the number of acres to calculate the minimum number of primary plants as follows:

$$n = \frac{n_0}{1 + \frac{(n_0-1)}{N}}$$

where “n” is the minimum number of primary plants to be selected for forming a composite sample, “n<sub>0</sub>” is the initial number of primary plants estimated using the previous formula, and “N” is the number of acres under cultivation.

- iv. Example 1: The initial primary plant sample size is 299 with a confidence level of 95% to detect hemp plants having an acceptable hemp THC level and a proportion of hemp plants having THC content above the acceptable threshold equal to 0.01 is considered appropriate. The adjusted primary plant sample sizes for fields from 11 to 173 acres in size are shown in the following table:

Number of Acres	Sample Size “n”						
11	11	40	36	75-76	61	119-120	86
12	12	41-42	37	77	62	121-122	87
13	13	43	38	78-79	63	123-124	88
14	14	44	39	80-81	34	125-126	89
15	15	45-46	40	82	35	127-128	90
16	16	47	41	83-84	66	129-130	91
17	17	48	42	85-86	67	131-132	92
18-19	18	49-50	43	87	98	133-134	93
20	19	51	44	88-89	69	135-136	94
21	20	52	458	90-91	70	137-138	95
22	21	53-54	46	92	71	139-140	96
23	22	55	47	93-94	72	141-143	97
24	23	56	48	95-96	73	144-145	98
25-26	24	57-58	49	97-98	74	146-147	99
27	25	59	50	99	75	148-149	100
28	26	60-61	51	100-101	76	150-152	101
29	27	62	52	102-103	77	153-154	102
30	28	63-64	53	104-105	78	155-156	103
31-32	29	65	54	106-107	79	157-158	104
33	30	66-67	55	108	80	159-161	105
34	31	68	56	109-110	81	162-163	106
35	32	69-70	57	111-112	82	164-166	107

<b>36</b>	<b>33</b>	<b>71</b>	<b>58</b>	<b>113-114</b>	<b>83</b>	<b>167-168</b>	<b>108</b>
<b>37-38</b>	<b>34</b>	<b>72-73</b>	<b>59</b>	<b>115-116</b>	<b>84</b>	<b>169-170</b>	<b>109</b>
<b>39</b>	<b>35</b>	<b>74</b>	<b>60</b>	<b>117-118</b>	<b>85</b>	<b>171-173</b>	<b>110</b>

- v. Example 2: The adjusted primary plant sample sizes for fields from less than 1 to 10 acres in size are shown in the following table:

<b>Number of Acres "N"</b>	<b>Sample Size "n"</b>
<b>Less than 1</b>	<b>1</b>
<b>1</b>	<b>1</b>
<b>2</b>	<b>2</b>
<b>3</b>	<b>3</b>
<b>4</b>	<b>4</b>
<b>5</b>	<b>5</b>
<b>6</b>	<b>6</b>
<b>7</b>	<b>7</b>
<b>8</b>	<b>8</b>
<b>9</b>	<b>9</b>
<b>10</b>	<b>10</b>

#### 5. Collecting Samples from Each Lot

- a. Investigators should always walk at right angles to the rows of plants if possible, beginning at one point of the lot and walking towards another point on the opposite side of the lot.
- b. While walking through the growing area, the sampling agent will cut at least "n" inflorescences (the flower or bud of a plant) based on the acreage of the growing area, at random but convenient distances. Inspectors will avoid collecting sample specimens from the borders of the field/greenhouse.
- c. The cut will be obtained from the flowering tops of plants when flowering tops are present, and shall be approximately five to eight inches in length from the "main stem" (that includes the leaves and flowers), "terminal bud" (that occurs at the end of a stem), or "central cola" (cut stem that develops into a bud) of the flowering top of the plant.



- d. Utilize paper sample bag(s) for collecting sample cuttings. Ensure that each bag has the minimum number of cuttings,  $n$ , as calculated by iii, or in the Example Tables 1 and 2.
- e. If one bag cannot accommodate the minimum number of cuttings due to lot size, the sample may be divided into multiple bags, but must be clearly labeled in such a way that each bag is appropriately matched with the corresponding lot. (i.e. For lot 101 with three corresponding sample bags: 101 1 of 3, 101 2 of 3, 101 3 of 3.)
- f. Seal each bag and record the sample number or other documentation.

- g. The sampling protocol is meant to ensure, at a confidence level of 95 percent, that the cannabis plants will not test above the acceptable hemp THC level of 0.3 percent on a dry weight basis.
- 6. Sample Identification
  - a. The investigator will seal each bag and record the sample identification number. The sample also will be identified with the following information: Name and contact information of the producer; producer hemp license number; date of sample; and lot.



# **Idaho State Department of Agriculture**

Testing Protocol for Delta-9  
Tetrahydrocannabinol (THC)  
Concentration in Hemp

## Contents

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## Purpose:

1. Standard testing procedures are specified for samples taken in accordance with the Sampling Procedures for the Idaho State Department Hemp Program (ISDA) to measure the total delta-9 tetrahydrocannabinol (THC) concentration levels of samples on a dry weight basis.
2. The results are intended to measure the total THC concentration of composite hemp samples collected from a lot of hemp licensed by the ISDA as required under the ISDA Hemp Rule. The purpose of the measurements is to determine whether the total THC concentration of the tested material is within the acceptable hemp THC level.

## Scope:

1. Hemp grown under ISDA's approved hemp production plan is subject to sampling and compliance testing for THC concentration.
2. Tests shall measure the total THC concentration in a sample submitted to an accepted laboratory for analysis. The laboratory will perform chemical analysis on the sample using post-decarboxylation or a similarly reliable method which considers the potential to convert delta-9-tetrahydrocannabinolic acid (THCA) into THC.
3. The total delta-9 tetrahydrocannabinol concentration level shall be determined and reported on a dry weight basis.
4. Laboratories shall calculate and include the Measurement of Uncertainty (MU) when reporting total THC concentration test results. Measurement of uncertainty is defined as 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. ISDA does not establish or standardize an upper or lower boundary for general use by laboratories to calculate a measurement of uncertainty. MU is not standardized typically but rather is controlled using test methods controlled by performance standards (e.g., AOAC Standard Method Performance Requirements 2019.003 that can be found at <https://www.aoac.org/resources/smpr-2019003/>).
5. Accepted laboratories are defined in IDAPA 02.01.06.
6. After December 31, 2022, laboratories approved for THC testing must also be registered with DEA to handle controlled substances under the Controlled Substances Act (CSA), 21 CFR part 1301.13.
7. It is the responsibility of the licensed producer to pay any fees associated with testing or retesting.

## Summary or Practice:

1. As required under the Department's Hemp Rule, laboratories that analyze hemp to determine total delta-9 tetrahydrocannabinol THC shall meet the following standards:
  - a. Laboratory quality assurance protocols must ensure the validity and reliability of test results;
  - b. Analytical method selection, validation, and verification protocols must ensure that the testing method used is appropriate (fit for purpose) and that the laboratory can successfully perform the testing;
  - c. Protocols for demonstrating testing validity must ensure consistent, accurate analytical performance;
  - d. Method performance specifications must ensure analytical tests are sufficiently sensitive for the purposes of the detectability requirements of this part;
  - e. Testing protocols must include an effective disposal procedure, in accordance with USDA guidelines and Idaho law, for non-compliant samples that do not meet the requirements of the Department's Hemp Rule.
  - f. Measurement of uncertainty (MU) must be estimated and reported with test results. Laboratories shall use appropriate, validated methods and procedures for all testing activities and evaluate measurement of uncertainty.
  - g. Sample preparation of pre- or post-harvest samples shall require grinding of the sample to ensure homogeneity of plant material prior to testing.
  - h. At a minimum, analytical testing of samples for total delta-9 tetrahydrocannabinol concentration levels must use post-decarboxylation or other similarly reliable methods. The testing methodology must consider the potential conversion of delta-9 tetrahydrocannabinolic acid (THCA) in hemp into delta-9 tetrahydrocannabinol (THC), and the test result must reflect the total available THC derived from the sum of the THC and THCA content. Current testing methodologies meeting these requirements include gas chromatography and liquid chromatography. Other methods may be approved if they meet the regulatory requirements.
  - i. The total delta-9 tetrahydrocannabinol concentration level shall be determined and reported on a dry weight basis.

2. Laboratories should create an internal SOP specific to testing and retesting hemp and should have the SOP available upon request for inspection.

### General Guidelines:

General sample preparation and testing procedures shall be conducted as follows:

1. Laboratory receives sample.
2. Dry sample to remove the majority of water.
3. Grind entire sample including leaves, seeds, twigs, and stems.
4. Separate sample into “Test” and “Retain” specimens.
  - a. Package and store the “Retain” specimen(s) until needed.
5. Analyze the “Test” specimen.
6. Determine moisture content or dry to a consistent weight.
7. Perform chemical analysis.
8. Calculate total THC concentration on a dry weight basis. Test results shall be reported on a dry weight basis.

### Sample Preparation Guidelines:

Samples will be prepared for testing as follows:

1. Once the composite sample is received by the laboratory, the laboratory will dry the composite sample until brittle in a manner that maintains the THC level of sample.
2. If it is not possible to dry the composite sample within 24 hours from the time of sample arrival, the sample should be held in a freezer at approximate -20°C (-4°F) or lower until the sample is dried.
3. After the initial drying step, the laboratory will grind the entire sample including leaves, seeds, twigs, and stems using centrifugal rotor mill or other method as appropriate. All samples received will be ground, regardless of whether they consist of the initial intact material or “remediated” (shredded or blended) material, as allowed under the Department’s Hemp Rule.

4. The laboratory will create both a Test Specimen and a Retain Specimen for reanalysis and/or confirmation as needed. One sample part should be selected for analysis and labeled 'Test Specimen. The other sample part should be marked Retain Specimen and should be packaged and stored in a secured place. The testing laboratory internal SOP should define the sample size and distribution of Test Specimen and Retain Specimen.
5. Samples will be stored in secured locations, in appropriate containers (e.g., bottles, tubes, vials, etc.).
6. The laboratory will then either determine moisture content or dry the test specimen to a consistent weight. Samples must be dried to a consistent loss (typically 5- 12% moisture content) so that the test can be performed on a dry weight basis, meaning the percentage of THC by weight, after excluding moisture from the sample. The moisture content is expressed as the ratio of the amount of moisture in the sample to the amount of dry solid in the sample.
  - a. The sample can be dried to a consistent weight to remove all water and then be tested on a dry weight basis. If the sample is not to be extracted immediately after drying, it should be stored in a desiccator.
  - b. Alternatively, the sample can be analyzed for moisture content and this moisture content can be factored into the total THC result to give a dry weight basis.
7. Extraction of the sample must occur as soon as possible from the time of sample arrival.

### Testing Guidelines:

1. The laboratory will perform chemical analysis on the sample using post-decarboxylation or other similarly reliable methods where the total THC concentration level considers the potential to convert THCA into THC.
2. Testing methodologies meeting these requirements include those using gas chromatography and liquid chromatography.
3. The laboratory will then calculate total THC concentration on a dry weight basis.

### Testing Methods:

1. The total available THC, derived from the sum of the THC and THCA content, shall be determined and reported on a dry weight basis.
2. Laboratories shall use appropriate, validated methods and procedures for all testing activities and shall evaluate measurement of uncertainty.

3. Laboratories should meet the AOAC International standard method performance requirements for Quantitation of Cannabinoids in Plant Materials of Hemp (Low THC Varieties Cannabis sp.) (SMPR 2019.003) for selecting an appropriate method.
4. The range of estimated uncertainty is reported as a  $\pm$  value and is the same unit as the hemp THC threshold (e.g.  $\pm 0.05$ ), following best practices for significant figures and rounding.

### Test Results Exceeding 0.3% THC Concentration:

1. Any sample test result where the total THC concentration of the sample is higher than the acceptable hemp THC level shall be conclusive evidence that one or more cannabis plants or plant products from the lot represented by the sample contain a THC concentration in excess of that allowed under the Department's Hemp Rule.
  - a. If the results of a test conclude that the THC concentration levels of a sample are higher than the acceptable hemp THC level, the laboratory will promptly notify the producer, the Department and the USDA.
2. Retest Procedures:
  - a. Any hemp program licensee may request that the laboratory retest samples if it is believed the original THC concentration level test results were in error.
  - b. If this occurs, the laboratory shall follow the same procedures as to conduct the initial test.
  - c. The licensee requesting the retest of the second sample will pay the cost of the test.
  - d. The retest results shall be issued to the licensee requesting the retest, and a copy shall be provided to ISDA.

### Information Sharing:

1. Laboratories performing THC testing for official compliance purposes of this program are required to share test results with the licensed producer and the Department. Laboratories shall report all test results, whether passing or failing, to USDA using AMS Form 22 available here:  
<https://www.ams.usda.gov/rulesregulations/hemp/information-laboratories>.
2. Laboratories shall indicate that a test result is for official compliance purposes on lab testing results for compliance purposes. Laboratories shall not mark test results for

monitoring of THC levels throughout the growing season as for official compliance purposes. Laboratories shall retain a legible copy for inspection upon request of all test results for official compliance purposes for a period of three (3) years from date of analysis.

3. Laboratories may provide test results to licensed producers in whatever manner best aligns with their business practices, but producers must be able to produce a legible copy of test results upon request for inspection purposes. For this reason, providing test results to producers through a web portal or through electronic mail, so the producer will have ready access to print the results when needed, is preferred.
4. Results of testing conducted throughout the growing season for the purposes of monitoring THC concentration should not be submitted to the Department. Only the official test result for compliance testing purposes shall be submitted to the Department.

### Testing Remediated Hemp Samples:

1. Licensees may remediate hemp following an initial failed test by shredding plant material in a product called biomass. In this instance, laboratories will receive samples of remediated biomass material for retesting.
2. For remediated testing, the laboratory shall follow the same procedures used to conduct an initial test, as described in this document.
3. For remediated testing, the laboratory shall follow the same reporting requirements as described in this document. A licensee must maintain a legible copy of the remediated test results, available for inspection, for a period of three years from receipt of the testing results provided by the laboratory. Therefore, laboratories are encouraged to provide such documentation to licensees.



# **Idaho State Department of Agriculture**

Remediation and Disposal Protocol for  
Hemp

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## Purpose:

1. Standard Remediation and Disposal Protocols are specified for all indoor and outdoor production of hemp.
2. Remediation refers to any process by which non-compliant hemp (THC concentration > 0.3%) is rendered compliant (THC concentration  $\leq$  0.3%). Remediation can be achieved by separating and destroying non-compliant flowers while retaining stalks, leaves, and seeds; or by shredding the entire hemp plant to create a homogenous “biomass” that can be retested for THC compliance.
3. Disposal means destroying non-compliant hemp using one of the approved on-farm methods. Approved methods include plowing under, mulching / composting, disking, bush mowing, deep burial, and burning.

## Scope:

1. A lot shall be subject to remediation or disposal when a sample from the lot tests over the acceptable hemp THC level according to laboratory results obtained through ISDA sampling and testing protocols.
2. Lots that test above the acceptable hemp THC level shall be subject to either remediation or disposal.
3. Samples must be collected by ISDA.
4. It is the responsibility of the licensed producer to pay any fees associated with resampling, remediation, and/or disposal.
5. Producers must verify disposal or remediation by submitting required documentation in accordance with 7 CFR §990.27 and the Department’s Hemp Rule. All records regarding disposal and remediation of all hemp plants shall be made available for inspection during reasonable business hours.
6. Laboratories shall have an effective disposal procedure as part of an internal SOP for non-compliant samples.

## Summary or Practice:

1. This practice provides procedures for ensuring the disposal or remediation of non-compliant hemp. When a hemp sample tests over the acceptable THC concentration level, all cannabis plants in the lot shall either be remediated to bring the lot under the

acceptable THC concentration level, or all cannabis plants shall be disposed of through an approved method. Both remediation and disposal shall be performed by the licensee.

2. Upon notification that a lot has tested above the acceptable hemp THC level, the licensee shall notify ISDA of the licensee's decision to either destroy or remediate the non-compliant lot in accordance with ISDA protocols.
3. Non-compliant hemp plants may be remediated by separating and destroying non-compliant flowers, while retaining stalks, leaves, and seeds.
4. Non-compliant hemp plants may be remediated by shredding the entire hemp plant to create "biomass." All flowers, buds, trichomes, leaves, stalks, seed, and all plant parts from a lot will be chopped or shredded in such a way as to create a homogenous, uniform blend of the lot called "biomass." Lots shall be kept separate and not be combined during this process. This biomass shall be resampled and retested to ensure the biomass material tests within an acceptable THC concentration level before it may enter the stream of commerce in accordance with the Department's Hemp Rule. If the biomass tests above the acceptable THC concentration level, it is non-compliant hemp and must be destroyed through one of the disposal options provided herein.
5. Disposal means destroying non-compliant hemp by performing any one or combination of the following on-farm activities: plowing under, mulching / composting, disking, bush mowing, deep burial, and burning.
  - a. A licensee shall ensure burn permits are obtained where necessary and applicable burn restrictions are followed.

### General Guidelines:

General Sample Preparation and Testing Protocol will be conducted as follows:

1. Laboratory receives sample.
2. Dry sample to remove the majority of water.
3. Grind entire sample including leaves, seeds, twigs, and stems.
4. Separate sample into "Test" and "Retain" specimens.
  - a. Package and store the "Retain" specimen(s) until needed.
5. Analyze the "Test" specimen.
6. Determine moisture content or dry to a consistent weight.

7. Perform chemical analysis.
8. Calculate total THC concentration on a dry weight basis. Test results will be reported on a dry weight basis.

## Equipment and Supplies:

1. Equipment for Remediation:
  - a. Gloves
  - b. Shears, clippers, scissors, shredding equipment (to remove non-compliant flowers from stalks)
  - c. Stripping, shredding, or mulching equipment
  - d. Large plastic bags or other containers to store shredded biomass
  - e. The bags and containers are be made from material known to be free from THC
  - f. Marking and labeling equipment (to mark and label hemp lots for remediation from other lots)
2. Equipment for Disposal:
  - a. Plow or tractor (for plowing, mulching, composting, disking, bush mowing, deep burial)
  - b. Composter (for composting)
  - c. A burn area and fire equipment (for burning non-compliant lots)
3. Equipment for Resampling:
  - a. Disposable gloves – Nitrile
  - b. Scoop with long handle (cleaned prior to and following each sample)
  - c. Bag to store resample
  - d. Permanent markers
  - e. The bags are be made from material known to be free from THC

- f. A 750 mL or similar measuring instrument (cleaned prior to and following each sample)

### Remediation Guidelines:

1. The licensee or their designated employee shall remediate or destroy non-compliant hemp in accordance with the Department's Hemp Rule and USDA's Final Hemp Rule. ISDA may be present during the remediation or disposal process.
2. If the licensee chooses to remediate the non-compliant lot, the licensee shall select either to separate and remove all flowers from stalks, leaves and seeds of the lot or to shred the entire lot into "biomass."
3. Separation and removal of the flowers from stalks, leaves and seeds:



- a. The flowers, including buds, trichomes, "trim," and "kief," will be removed from the lot and destroyed. Methods may include, but are not limited to, the removal, by hand, of non-compliant flowers and floral materials and the mechanical removal of non-compliant flowers and floral materials.
  - b. Until such time as the non-compliant flowers and floral material are disposed of, the stalks, leaves, and seeds will be separated from the non-compliant floral material and clearly labeled and demarcated as "hemp for remediation purposes."
  - c. Seeds removed from non-compliant hemp during remediation will not be used for propagative purposes.
4. Creation of Biomass



- a. The entire lot, as reported to ISDA, shall be shredded to create a homogenous, uniform biomass. Methods may include, but are not limited to, the shredding of hemp plants through shredders, composters, or specialty mechanical equipment.
- b. The biomass created through this process shall be resampled and retested to ensure compliance before entering the stream of commerce in accordance with the Department's Hemp Rule and USDA's Final Hemp Rule. Biomass that fails the retesting is non-compliant hemp and shall be destroyed.
- c. Remediated biomass will be separated from any compliant hemp stored in the area and clearly labeled and demarcated as "hemp for remediation purposes." All lots subject to remediation should be stored, labeled and demarcated apart from each other and from other compliant hemp lots stored or held nearby.
- d. Remediated biomass will not leave the labeled and demarcated area until a test result showing compliance with the acceptable hemp THC level is received or until the biomass will be destroyed.

### Re-Sampling Remediated Biomass:

1. Remediated biomass shall be resampled and retested to ensure compliance before entering the stream of commerce in accordance with the Department's Hemp Rule and USDA's Final Hemp Rule. Biomass that fails the retesting shall be destroyed.
2. The resample shall be taken by ISDA as described in the ISDA Hemp Production Pre-harvest Sampling Protocols.
3. A representative sample of the biomass will be taken for compliance purposes. When taking the resample, ISDA shall take biomass material from various depths, locations, and containers in the labeled and demarcated area to collect a representative sample of

the material. At minimum, ~750 mL or three (3) standard measuring cups of biomass material should be collected. Sampling agents may collect more biomass material based on the requirements of the testing laboratory. If ~750 mL of material is not available, ISDA shall collect enough biomass material for a representative sample.

4. An original copy of the resample test results, or a legible copy, will be retained by the licensee or an authorized representative and available for inspection for a period of three (3) years from the date of receipt.
5. Laboratories testing a resample should utilize the same testing protocols as when testing a standard sample as described in the ISDA Hemp Lab Testing Protocols.

### Disposal Guidelines:

	<b>Plowing Under</b> Curved plow blades rotate subsoil to surface and bury crop below	<b>Plowing Under</b> “Green Manure” Amends soil directly from crop	
	<b>Mulching / Composting</b> Fields crops cut and blended with manure or other biomass material	<b>Mulching / Composting</b> “Green Manure” Mulch mixed with manure or other biomass	
	<b>Disking</b> Leveling of field using tow-behind disk implement	<b>Disking</b> “Green Manure” Amends soil directly from crop while leveling	
	<b>Bush Mower / Chopper</b> Lawn mower used to shred and mix thick vegetation	<b>Bush Mower / Chopper</b> “Green Manure” Shredded biomass decomposes into soil	



**Burning\***  
Setting fire to specific production fields or biomatter piled on the field

**Burning**  
Fields are cleared of all plant material





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**BRAD LITTLE**, GOVERNOR

**CELIA GOULD**, DIRECTOR

## **Idaho State Hemp Plan**

### **Certification of Resources**

Consistent with the USDA Final Hemp Rule, 7 CFR Part 990, the Idaho State Department of Agriculture has the resources and personnel to carry out required hemp program enforcement and procedures.

Under Idaho's new hemp law, the ISDA received ongoing funding to start a hemp program within the Department. Additionally, the new law created a designated hemp fund for ongoing and new funding. Additional fees to sustain a hemp program have been established in the Department's administrative Hemp Rule.

Sincerely,

A handwritten signature in blue ink that reads "Celia R. Gould".

Celia Gould  
Director