

IDAPA 11 – IDAHO STATE POLICE

Idaho State Police

11.08.01 – Rules Governing Hemp Transportation

Who does this rule apply to?

Law enforcement agencies and transporters of hemp through the state of Idaho.

What is the purpose of this rule?

Currently any substance that contains THC is illegal in Idaho. Recent changes in federal statute and rule define hemp as a product which may contain THC in certain amounts. This rule is needed to provide regulation for the interstate transportation of hemp through Idaho in order to protect the health, safety and welfare of the State of Idaho from the illicit drug trade, and to comply with existing federal statute and rule.

What is the legal authority for the agency to promulgate this rule?

This rule implements the followings statute passed by the Idaho Legislature:

State Government and State Affairs -

Idaho State Police:

- [Section 67-2901, Idaho Code](#) – Idaho State Police Created – Director – Divisions – Powers and Duties – Failure of Peace Officers to Obey Orders, Misdemeanor – Deputies – Compensation and Powers
- [Section 67-2901A, Idaho Code](#) – Authority to Conduct Safety Inspections and Compliance Reviews of Motor Carriers— Adoption of Rules — Penalty
- [Section 67-2901B, Idaho Code](#) – Inspection of Motor Carriers — Exemptions — Certification of Repair — Compliance Review — Penalties
- [Agricultural Improvement Act of 2018, Public Law No. 115-334, 132 Stat. 4490](#), and
- [Agricultural Act of 2014, Public Law No. 113-79, 128 Stat. 649](#)

Who do I contact for more information on this rule?

Idaho State Police

Headquarters

Monday through Friday, 8:00 a.m. to 5:00 p.m.

700 S. Stratford Drive, Suite 125

Meridian, ID 83642

Phone: (208) 884-7100

Fax: (208) 884-7290

Email: adminrules@isp.idaho.gov

Web: <https://isp.idaho.gov>

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11.08.01 – RULES GOVERNING HEMP TRANSPORTATION

000. LEGAL AUTHORITY.

01. General. The Director of the Idaho State Police has general rulemaking authority pursuant to Sections 67-2901, 67-2901A, and 67-2901B, Idaho Code. (3-20-20)T

02. Specific. By [Executive Order 2021-01](#), the Director of the Idaho State Police was directed by the Governor to engage in rulemaking concerning hemp transportation through the state of Idaho, in light of the 2018 Farm Bill. (1-7-21)T

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 11.08.01, “Rules Governing Hemp Transportation,” IDAPA 11, Title 08, Chapter 01. (3-20-20)T

02. Scope. These rules concern the authorization, transportation, and enforcement for the transportation of hemp through the state of Idaho. Nothing within these rules shall authorize or be interpreted to legalize hemp, its byproducts, oils, or any other derivative prohibited by Idaho law. These rules only permit the interstate transportation of hemp consistent with the 2018 Farm Bill and its implementing regulations and [Executive Order 2021-01](#). (1-7-21)T

002. – 009. (RESERVED)

010. DEFINITIONS.

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

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

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

04. Controlled Substance. As defined in Section 37-2701, Idaho Code. (3-20-20)T

05. Department. The Idaho State Police. (3-20-20)T

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

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

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

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

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

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

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

13. Lawful-Hemp Verification. A written verification that the hemp being transported was produced by a grower or producer duly-licensed by a state or Indian Tribe authorized to regulate hemp production under the

2014 Farm Bill or the 2018 Farm Bill or an equivalent USDA hemp producer license. The hemp production license for the producer of the hemp being transported, or a copy thereof, must be attached. This form will be available on the Department website, <https://isp.idaho.gov/>. (3-20-20)T

- 14. **Lot.** As defined in 7 C.F.R. §990.1. (3-20-20)T
- 15. **Marijuana.** A controlled substance as defined in Section 37-2701, Idaho Code. (3-20-20)T
- 16. **Peace Officer.** As defined in Section 19-5101, Idaho Code. (3-20-20)T
- 17. **Producer.** As defined in 7 C.F.R. §990.1. (3-20-20)T
- 18. **Roadway.** As defined in Section 49-119, Idaho Code. (3-20-20)T
- 19. **State.** As defined in Section 7 U.S.C. §1639o. (3-20-20)T
- 20. **Transporter.** Any person, individual, partnership, corporation, association, grower, farmer, producer or any other entity engaged in hauling, transporting, delivering, or otherwise moving hemp in interstate commerce. (3-20-20)T
- 21. **Vehicle.** As defined in Section 49-123, Idaho Code. (3-20-20)T

011. ABBREVIATIONS.

- 01. **DEA.** The United States Drug Enforcement Administration. (3-20-20)T
- 02. **ITD.** The Idaho Transportation Department. (3-20-20)T
- 03. **ISDA.** The Idaho State Department of Agriculture. (3-20-20)T
- 04. **USDA.** United States Department of Agriculture. (3-20-20)T

012. TRANSPORTATION.

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

02. **Required Documentation.** Any transporter or vehicle hauling hemp shall carry and provide upon initial declaration at a port of entry, and upon request during any contact with a peace officer in the State of Idaho, the following documents: (3-20-20)T

- a. The Driver Affirmation; (3-20-20)T
- b. The Lawful-Hemp Verification; (3-20-20)T
- c. The Laboratory Report; and (3-20-20)T
- d. The Bill of Lading. (3-20-20)T

03. **Vehicle Detention.** Authorized ITD personnel at ports of entry and any peace officer may detain any vehicle transporting hemp and said detention shall be as long as reasonably necessary to effectuate inspection, sampling, and weighing of any hemp. (3-20-20)T

04. Transporter Consent to Inspection. Any transporter of hemp shall consent to inspection of the shipment to ensure that the hemp complies with the 2014 Farm Bill or the 2018 Farm Bill and 7 C.F.R. §990.1 et seq., and to randomly-selected, reasonably-sized samples, retained by the inspecting peace officer for further off-sight testing. Transporters shall not be entitled to compensation for these de minimis samples. (3-20-20)T

05. Sample Analysis. Samples shall be subjected to analysis in a manner consistent with the 2018 Farm Bill and 7 C.F.R. §990.1 et seq., to determine total delta-9 tetrahydrocannabinol (THC) including all tetrahydrocannabinolic acid (THCA). Hemp samples not in compliance with the 2018 Farm Bill and 7 C.F.R. §990.1 et seq., may subject the transporter to criminal penalties for marijuana under Chapter 27, Title 37, Idaho Code. (3-20-20)T

06. Shipment Weight. Weight for purposes of enforcement is deemed to be the declared weight on the transporter's bill of lading or the actual weight at time of inspection, whichever is greater. (3-20-20)T

07. Transporter Receipt of Inspection Report. Once the hemp inspection is complete at the port of entry or roadside, hemp transporters will be given an inspection report, which must be presented upon request during any contact with a peace officer in the state of Idaho subsequent to the initial declaration at the port of entry or roadside. (3-20-20)T

08. Transporter to Avoid Delay. Any transporter hauling hemp shall proceed through the state of Idaho with all due speed and avoid any unnecessary delay. (3-20-20)T

09. Law Enforcement. Except when hemp is transported as authorized by these rules, nothing in these rules shall inhibit or restrict any peace officer from enforcing to the fullest extent the laws of this state prohibiting marijuana under Chapter 27, Title 37, Idaho Code. (3-20-20)T

10. Failure to Comply. Failure to comply with any of these rules may subject a transporter to the laws of this state prohibiting marijuana under Chapter 27, Title 37, Idaho Code, including any and all criminal and civil penalties as authorized by law. (3-20-20)T

11. Enforcement of Rule. The Department may contract with ISDA and ITD as necessary to efficiently carry out these rules. (3-20-20)T

12. Rules Are Effective Upon Adoption. These rules apply prospectively and nothing within these rules shall authorize or be interpreted to apply to hemp transported in the state of Idaho prior to these rules being adopted. (3-20-20)T

013. – 999. (RESERVED)

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