

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed Emergency

Rule making related to hemp

The Agriculture and Land Stewardship Department hereby amends Chapter 96, “Hemp,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 204.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 204 as amended by 2022 Iowa Acts, House File 2380.

Purpose and Summary

This rule making implements changes that were made to the Department’s hemp program during the 2022 Legislative Session. Under the new law, producers can be licensed to grow up to 320 acres of hemp; they were previously limited to 40 acres. These amendments reflect the new 320-acre limit, update the fee structure accordingly, increase transparency, and update the sampling methodology to ensure a 95 percent confidence interval for testing of delta-9 tetrahydrocannabinol (THC).

*Reason for Adoption of Rule Making Without
Prior Notice and Opportunity for Public Participation*

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary or impractical because Iowa Code section 204.3 so provides.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(a) and (b), the Department also finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on January 3, 2023, because the Department has been working with the United States Department of Agriculture (USDA) to update the state hemp plan and incorporate the acreage limit change that was made during the 2022 Legislative Session. At this time, the Department and USDA are still working through updates, but the 320-acre limit should be in place for the 2023 growing season to comply with state law. Emergency rule making will ensure that. The Department will continue to work through the state plan with USDA and plans to implement those updates in 2024.

Adoption of Rule Making

This rule making was adopted by the Department on December 15, 2022.

Concurrent Publication of Notice of Intended Action

In addition to its adoption on an emergency basis, this rule making has been initiated through the normal rule-making process and is published herein under Notice of Intended Action as **ARC 6806C** to allow for public comment.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 21—Chapter 8.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making became effective on January 3, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule **21—96.1(204)**, definition of “Crop site,” as follows:

“*Crop site*” or “*site*” means a single contiguous parcel of land suitable for the planting, growing, or harvesting of hemp, if the ~~parcel~~ tract of land does not exceed ~~40~~ 320 acres. All the area within the contiguous ~~parcel~~ tract is part of the crop site. Unplanted areas, including spacing between planted rows, are part of the crop site for purposes of determining the size of a ~~parcel~~ site. The crop site shall not be a dwelling.

ITEM 2. Rescind rule 21—96.5(204) and adopt the following **new** rule in lieu thereof:

21—96.5(204) Fees. The department shall impose, assess, and collect fees, which shall be paid by a licensee. All fees shall be collected by the department before the department takes any action for which the fee is applicable. All fees are nonrefundable. All inspection fees shall include the collection of an official sample and an official laboratory test of that sample. Fees are set as follows:

TABLE 1
CROP SITE LICENSE FEES

Acres	License Fee	
0 - 5	\$500 + \$5 per acre	Paid at application
5.1 - 10	\$750 + \$5 per acre	
10.1 - 320	\$1,000 + \$5 per acre	

TABLE 2
INSPECTION FEES

Primary Inspection Fee	\$500	Paid at application
Secondary Inspection Fee	\$500	Paid upon inspection request
Supplemental Inspection Fee	\$150	Paid upon inspection request
Remediation Inspection Fee	\$500	Paid upon inspection request

TABLE 3
RETESTING FEE

Retesting Fee	\$150	Paid upon retesting request

96.5(1) Fees paid at time of license application. The license fee and primary inspection fee shall be paid prior to acceptance of a license application. License fees shall be based on the number of acres in a crop site. A primary inspection fee shall secure a preharvest inspection of one lot or sub-lot.

96.5(2) Fees for preharvest inspection of additional hemp lots and sub-lots. A licensee may request official sampling of additional lots and sub-lots. All inspection fees shall be paid prior to performance of any official test.

a. If the additional preharvest inspection is to occur at the same time as the primary preharvest inspection, then a supplemental inspection fee shall be paid for each additional lot or sub-lot to be inspected.

b. If the additional preharvest inspection is to occur on a different day than the primary preharvest inspection, then the licensee shall pay a secondary inspection fee for the first lot or sub-lot to be inspected, and each lot or sub-lot after that shall each be assigned a supplemental inspection fee.

96.5(3) Retesting fee. A licensee may request a single retest of a preharvest sample previously collected for a lot or sub-lot if the licensee believes the original official laboratory test result was in error. The licensee may not request the collection of a new sample. The licensee requesting the retest of the sample shall pay the retesting fee prior to performance of official retest.

96.5(4) Remediation inspection fee. A licensee may request a single post-remediation sample for a lot or sub-lot if the licensee receives permission from the department to remediate a crop with an official test result that exceeds the acceptable hemp THC concentration. The remediation inspection fee shall be paid prior to performance of official test.

ITEM 3. Amend subrule 96.7(9) as follows:

96.7(9) The official sample collected by the department shall consist of approximately 2-inch cuttings of flowering material, meaning inflorescences (the flower or bud of plant), from the top one-third of the plant, based on the following table:

TABLE 4
NUMBER OF PLANTS SAMPLED, BASED ON LOT AND SUB-LOT ACREAGE SIZE

Number of acres	Number of plants sampled	Number of acres	Number of plants sampled	Number of acres	Number of plants sampled	Number of acres	Number of plants sampled
1 1 - 10	10	11 81 - 90	11 69	21 161 - 170	20 108	31 241 - 250	29 136
2 11 - 20	10 19	12 91 - 100	12 75	22 171 - 180	21 112	32 251 - 260	29 139
3 21 - 30	10 27	13 101 - 110	13 81	23 181 - 190	22 116	33 261 - 270	30 142
4 31 - 40	10 35	14 111 - 120	14 86	24 191 - 200	23 120	34 271 - 280	31 145
5 41 - 50	10 43	15 121 - 130	15 91	25 201 - 210	24 123	35 281 - 290	32 147
6 51 - 60	10 50	16 131 - 140	16 95	26 211 - 220	24 127	36 291 - 300	33 150
7 61 - 70	10 57	17 141 - 150	17 100	27 221 - 230	25 130	37 301 - 310	34 152
8 71 - 80	10 63	18 151 - 160	18 104	28 231 - 240	26 133	38 311 - 320	34 155
9	10	19	18	29	27	39	35
10	10	20	19	30	28	40	36

This table reflects a sampling scheme with a 95 percent confidence interval that no more than 1 percent of the plants in each lot would exceed the acceptable hemp THC concentration.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/11/23.