

R68. Agriculture and Food, Plant Industry.

R68-27. Cannabis Cultivation.

R68-27-1. Authority and Purpose.

1) Pursuant to sections 4-41a-103(5), 4-41a-302(3)(b)(ii), 4-41a-404(3), 4-41a-405(2)(b)(iv), 4-41a-701(3), 4-41a-801(1), and 4-2-103(1)(i), this rule establishes the application process, qualifications and requirements to obtain and maintain a cannabis cultivation license.

R68-27-2. Definitions.

As used in this rule:

1) "Applicant" means any person or business entity who applies for a cannabis cultivation facility license.

2a) "Cannabis" means any part of a marijuana plant:

b) "Cannabis" does not mean, for purposes of this rule, industrial hemp.

3) "Cannabis cultivation facility" means a person that:

a) possesses cannabis;

b) grows or intends to grow cannabis; and

c) sells or intends to sell cannabis to a cannabis cultivation facility or a cannabis processing facility.

4) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

a) authorizes an individual to act as a cannabis production establishment agent; and

b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

5) "Department" means the Utah Department of Agriculture and Food

6) "Indoor cannabis cultivation" means cultivation of cannabis within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors.

7) "Lot" means the quantity of:

a) flower produced on a particular date and time, following clean up until the next clean up during which the same materials are used; or

b) trim, leaves, or other plant matter from cannabis plants produced on a particular date and time, following clean up until the next clean up.

8) "Outdoor cannabis cultivation" means an open or cleared ground fully enclosed at the perimeter by a securable, sight obscure wall or fence at least eight feet high.

R68-27-3. Cannabis Cultivation Facility License.

1) A cannabis cultivation license allows the licensee to propagate, cultivate, harvest, trim, dry, cure, and package cannabis into lots for sale or transfer to a cannabis production

facility.

2) A cannabis cultivation facility may produce and sell cannabis plants, seed, and plant tissue culture to other licensed cannabis cultivation facilities.

3) A complete application shall include the required fee, statements, forms, diagrams, operation plans, and other applicable documents required in the application packet to be accepted and processed by the department.

4) Prior to approving an application, the department may contact any applicant and request additional supporting documentation or information.

5) Prior to issuing a license, the department shall inspect the proposed premises to determine if the applicant complies with state laws and rules.

6) The department may conduct face-to-face interviews with an applicant if needed to determine the best qualified applicant for the number of licenses that will be issued.

7) The license shall expire on December 31st.

8) A license may not be sold or transferred.

R68-27-4. Cannabis Cultivation Facility Requirements.

1) A cannabis cultivation facility operating plan shall contain a blue print or diagrams of the facility containing the following information:

a) for indoor cannabis cultivation, the square footage of the areas where cannabis is to be propagated;

b) for indoor cannabis cultivation, the square footage of the areas where cannabis is to be grown;

c) the square footage of the areas where cannabis is to be harvested;

d) the areas where cannabis is to be dried, trimmed and cured;

e) the square footage of the areas where cannabis is to be packaged for wholesale;

f) the total square footage of the cultivation facility;

g) the square footage and location of areas to be used as storerooms;

h) the location of the toilet facilities and hand washing facilities;

i) the location of a break room and location of personal belonging lockers; and

j) the location of the areas to be used for loading and unloading of cannabis products for transportation.

2) For outdoor cannabis cultivation, the operating plan shall contain a detailed aerial photograph of the area on which the following information is shown:

a) the area where cannabis to be propagated; and

- b) the area where cannabis is to be grown.
- 3) A cannabis cultivation facility operating plan shall detail the drying and curing methods to be used by the cannabis cultivation facility.
- 4) An outdoor cannabis cultivation facility shall outline the measures to be taken to ensure that product is kept from deterioration and contamination.
- 5) A cannabis cultivation facility shall have written emergency procedures to be followed in case of:
 - a) fire;
 - b) chemical spill; or
 - c) other emergencies at the facility
- 6) A cannabis cultivation facility operating plan shall include:
 - a) a pest management plan;
 - b) when and how fertilizers are to be applied during the production process;
 - c) water usage and waste water disposal; and
 - d) a waste disposal plan.
- 7) A cannabis cultivation facility shall have a written plan to handle potential recall and destruction of cannabis because of contamination.
- 8) A cannabis cultivation facility shall use a standardized scale which is registered with the department when cannabis is:
 - a) packaged for sale by weight;
 - b) bought and sold by weight;
 - c) weighed for entry into the inventory control system.
- 9) A cannabis cultivation facility shall ensure that sanitary conditions are maintained on the premises including proper and timely removal of all litter and waste.
- 10) The cannabis cultivation facility shall compartmentalize all areas in the facility based on function.
- 11) A cannabis cultivation facility shall limit access to the compartments to appropriate agents.

R68-27-5. Security Requirements.

- 1) At a minimum, each cannabis cultivation facility shall have a security alarm system on all perimeter entry points and perimeter windows.
- 2) At a minimum, a licensed cannabis cultivation facility shall have a complete video surveillance system:
 - a) with a minimum camera resolution of 640 x 470 pixels or pixel equivalent for analog; and
 - b) that retains footage for at least 45 days.
- 3) All cameras at a cannabis cultivation facility shall:
 - a) be fixed and placement shall allow for the clear and certain identification of any person and activities in controlled

areas; and

- b) record continuously.
- 4) Controlled areas include:
 - a) all entrances and exits, or ingress and egress vantage points;
 - b) all areas within an indoor or outdoor room or area where cannabis is propagated, grown, harvested, dried, or trimmed;
 - c) all areas where cannabis is stored; or
 - d) all areas where cannabis waste is being moved, processed, stored, or destroyed.
- 5) If a cannabis cultivation facility stores footage locally, the surveillance system storage device shall be secured in the facility in a lockbox, cabinet, closet, or secured in another manner to protect from employee tampering or criminal theft.
- 6) If a cannabis cultivation facility stores footage on a remote server, access shall be restricted to protect from employee tampering.
- 7) Any gate or entry point must be lighted in low-light conditions.
- 8) All visitors to a cannabis cultivation facility shall be required to have a properly displayed identification badge issued by the facility at all times while on the premises of the facility.
- 9) All cannabis cultivation facility visitors shall be escorted by a facility agent at all times while in the facility.
- 10) A cannabis cultivation facility shall keep and maintain a log showing:
 - a) the full name of each visitor entering the facility;
 - b) the badge number issued;
 - c) the time of arrival;
 - d) the time of departure, and
 - e) the purpose of the visit.
- 11) The visitor log shall be maintained by the cannabis cultivation facility for a minimum of one year.
- 12) The cannabis cultivation facility shall make visitor log available to the department upon request.

R68-27-6. Inventory Control.

- 1) Every cannabis plant that reaches eight inches in height with a root ball shall be issued a unique identification number in the inventory control system, which follows the plant through all phases of production.
- 2) Every cannabis plant, lot of usable cannabis trim, leaves, and other plant matter, test lot, and harvest lot shall be issued a unique identification number in the inventory control system.

- 3) Unique identification numbers cannot be reused.
- 4) Each cannabis plant, lots of usable cannabis trim, leaves, and other plant matter cannabis products, test lots, harvest lots, and process lot that has been issued a unique identification number shall have a physical tag with the unique identification number.
- 5) The tag shall be legible and placed in a position that can be clearly read and kept free from dirt and debris.
- 6) The following shall be reconciled in the inventory control system at the close of business each day:
 - a) movement of seedling or clone to the vegetation production area;
 - b) when plants are partially or fully harvested or destroyed;
 - c) when cannabis is being transported to other facilities;
 - d) all samples used for testing and the testing results;
 - e) a complete inventory of all cannabis, cannabis seeds, plant tissue, seedlings, clones, plants, trim or other plant material;
 - f) the weight of all harvested cannabis plants immediately after harvest;
 - g) the weight and disposal of post-harvest waste materials;
 - h) the identity of who disposed of the waste and the location of waste receptacle; and
 - i) theft or loss, or suspected theft or loss, of cannabis.
- 7) A receiving cannabis cultivation facility shall document in the inventory tracking system any cannabis received, and any differences between the quantity specified in the transport manifest and the quantities received.
- 8) For plants under eight inches, the cultivation facility shall keep record of:
 - a) the number of cannabis seeds or cuttings planted;
 - b) the date on which they were planted;
 - c) the date the plants were moved into the vegetation area and tagged;
 - d) the strain of the seeds or cuttings;
 - e) the number of plants grown to maturity;
 - f) the number of plants disposed of; and
 - g) the date of disposal.

R68-27-7. Cannabis Cultivation Facility Agents.

- 1) A cannabis cultivation facility shall apply to the department for a cannabis cultivation facility agent registration card on a form provided by the department.
- 2) An application is not considered complete until the background check has been completed and the facility has paid the fee.

3) The cannabis production establishment agent registration card shall contain:

- a) the agent's full name;
- b) the name of the cannabis cultivation establishment;
- c) the type of cannabis production establishment;
- d) the job title or position of the agent; and
- e) a photograph of the agent.

4) A cannabis cultivation facility is responsible to ensure that all agents have received the department approved training as specified in Utah Code 4-41a-301.

5) A cannabis cultivation facility agent shall have a properly displayed identification badge which has been issued by the department at all times while on the facility premises or while engaged in the transportation of cannabis.

6) All cannabis facility agents shall have their state issued identification in their possession to certify the information on their badge is correct.

7) An agent's identification badge shall be returned to the department immediately upon termination of their employment with the cannabis cultivation facility.

R68-27-8. Pesticide and Fertilizer Use.

1) A cannabis cultivation facility shall maintain:

a) the material safety data sheet for all pesticides, fertilizers, or other agricultural chemicals used in the production of cannabis which shall be accessible to all agents;

b) the original label or a copy thereof for all pesticides, fertilizers, or other agricultural chemicals used in the production of cannabis; and

c) a log of all pesticides, fertilizers, or other agricultural chemicals used in the production of cannabis.

2) Pesticides approved by the department may be used in the production, processing, and handling of cannabis.

3) Pesticides, fertilizers, and other agricultural chemicals are to be stored in a separate location apart from cannabis.

4) Pesticides shall be used consistent with the label requirements.

5) Commercial fertilizers registered with the department under the Utah Fertilizer Act may be used in the production and handling of cannabis

6) Cannabis exposed to unauthorized pesticides, soil amendments, or fertilizers is subject to destruction at the cost of the cannabis cultivation facility.

R68-27-9. Transportation.

1) A printed transport manifest shall accompany every transport of cannabis.

- 2) The manifest shall contain the following information:
 - a) the cannabis production establishment address and license number of the departure location;
 - b) physical address and license number of the receiving location;
 - c) strain name, quantities by weight, and unique identification numbers of each cannabis material to be transported;
 - d) date and time of departure;
 - e) estimated date and time of arrival; and
 - f) name and signature of each agent accompanying the cannabis.
- 3) The transport manifest may not be voided or changed after departing from the original cannabis cultivation facility.
- 4) A copy of the transport manifest shall be given to the receiving cannabis production establishment.
- 5) The receiving cannabis establishment shall ensure that the cannabis material received is as described in the transport manifest and shall record the amounts received for each strain into the inventory control system.
- 6) The receiving cannabis establishment shall document at the time of receipt any differences between the quantity specified in the transport manifest and the quantities received in the inventory control system.
- 7) During transport a cannabis cultivation facility shall ensure the cannabis is:
 - a) shielded from the public view;
 - b) secured; and
 - c) temperature controlled if perishable.
- 8) A cannabis cultivation facility shall contact the department within 24 hours if a vehicle transporting cannabis is involved in an accident that involves product loss.
- 9) Only the registered agents of the cannabis cultivation facility may occupy a transporting vehicle.

R68-27-10. Recall Protocol.

- 1) The department may initiate a recall of cannabis or cannabis products if :
 - a) evidence exists that pesticides not approved by the department are present on or in the cannabis or cannabis products;
 - b) evidence exists that residual solvents are present on or in cannabis or cannabis products;
 - c) evidence exists that harmful contaminants are present on or in cannabis or cannabis products; or
 - d) the department believes or has reason to believe the cannabis or cannabis products are unfit for human consumption.
- 2) A cannabis cultivation facility's recall plan shall

include, at a minimum:

- a) designation of at least one member of the staff who serves as the recall coordinator;
 - b) procedures for identifying and isolating product to prevent or minimize distribution to patients;
 - c) procedures to retrieve and destroy product; and
 - d) a communications plan to notify those affected by the recall.
- 3) The facility must track the total amount of affected cannabis or cannabis product and the amount of affected cannabis or cannabis product returned to the facility as part of the recall.
- 4) The cannabis cultivation facility shall coordinate the destruction of the cannabis or cannabis product with the department and allow the department to oversee the destruction of the affected product.
- 5) The department shall periodically check on the progress of the recall until the department declares an end to the recall.
- 6) A cannabis cultivation facility shall notify the department before initiating a voluntary recall.

R68-27-11. Minimum Requirements for the Storage and Handling of Cannabis.

- 1) All storage areas shall provide adequate lighting, sanitation, temperature, humidity, space, equipment, and security conditions for the storage of cannabis.
- 2) All stored cannabis shall be at least six inches off the ground.
- 3) All cannabis shall be stored away from all other chemicals, lubricants, pesticides, fertilizers, or other potential contaminants.
- 4) Cannabis that is outdated, damaged, deteriorated, misbranded, adulterated shall be stored separately until it is destroyed.

R68-27-12. Cannabis Waste Disposal.

- 1) Solid and liquid wastes generated during cannabis cultivation shall be stored, managed, and disposed of in accordance with applicable state laws and regulations.
- 2) Wastewater generated during the cannabis production and processing shall be disposed of in compliance with applicable state laws and regulations.
- 3) Cannabis waste generated from the cannabis plant, trim, and leaves are not considered hazardous waste unless it has been treated or contaminated with a solvent, or pesticide.
- 4) All cannabis waste shall be rendered unusable prior to leaving the cannabis cultivation facility.

5) Cannabis waste, which is not designated as hazardous, shall be rendered unusable by grinding and incorporating the cannabis plant waste with other ground materials so the resulting mixture is at least fifty percent non-cannabis waste by volume or other methods approved by the department before implementation.

6) Materials used to grind with cannabis fall into two categories:

- a) compostable; or
- b) non-compostable.

7) Compostable waste is cannabis waste to be disposed of as compost or in another organic waste method mixed with:

- a) food waste;
- b) yard waste; or
- c) vegetable-based grease or oils.

8) Non-compostable waste is cannabis waste to be disposed of in a landfill or another disposal method, such as incineration, mixed with:

- a) paper waste;
- b) cardboard waste;
- c) plastic waste; or
- d) soil.

9) Cannabis waste includes:

- a) cannabis plant waste including roots, stalks, leaves, and stems;
- b) excess cannabis or cannabis products from any quality assurance testing;
- c) cannabis or cannabis products that fail to meet testing requirements; and
- d) cannabis or cannabis products subject to a recall.

R68-27-13. Change in Operation Plans.

1) A cannabis cultivation facility shall submit a notice, on a form provided by the department, prior to making any changes to:

- a) ownership or financial backing of the facility;
- b) the facility's name;
- c) a change in location;
- d) any modification, remodeling, expansion, reduction or physical, non-cosmetic alteration of a facility; or
- e) change in square footage or acreage of cannabis intended to be cultivated.

2) A cultivation facility may not implement changes to the approved operation plan without department approval.

3) The department shall respond to the request for changes within 15 business days.

4) The department shall approve of requested changes unless approval would lead to a violation of the applicable laws and rules of the state.

5) The department shall specify the reason for the denial of approval for a change to the operation plan.

R68-27-14. Renewals.

1) A cannabis cultivation facility shall submit a notice of intent to renew and the licensing fee to the department by December 1st.

2) If the licensing fee and intent to renew are not submitted by December 31st the licensee may not continue to operate.

3) The department renew a license unless renewal would lead to a violation of the applicable laws and rules of the state.

R68-27-15. Violations Categories.

1) Public Safety Violations: \$3,000- \$5,000 per violation. This category is for violations which present a direct threat to public health or safety including, but not limited to:

- a) use of unapproved pesticides or unapproved agricultural soil amendments;
- b) cannabis sold to an unlicensed source;
- c) cannabis purchased from an unlicensed source;
- d) refusal to allow inspection;
- e) failure to comply with testing requirements;
- f) a test result for high pesticide residue in the cannabis produced or cannabis product ;
- g) unauthorized personnel on the premises;
- h) permitting criminal conduct on the premises; or
- i) engaging in or permitting a violation of the Utah Code 4-41a.

2) Regulatory Violations: \$1,000 - \$5,000 per violation. This category is for violations involving this rule and other applicable state rules including, but not limited to:

- a) failure to maintain alarm and security systems;
- b) failure to keep and maintain records;
- c) failure to maintain traceability;
- d) failure to follow transportation requirements;
- e) failure to follow the waste and disposal requirements;
- f) engaging in or permitting a violation of Utah Code 4-41a or this rule; or
- g) failure to maintain standardized scales.

3) Licensing Violations: \$500- \$5,000 per violation. This category is for violations involving licensing requirements including, but not limited to:

- a) an unauthorized change to the operating plan;
- b) failure to notify the department of changes to the operating plan;
- c) failure to notify the department of changes to financial

or voting interests of greater than 2%;

d) failure to follow the operating plan as approved by the department;

e) engaging in or permitting a violation of this rule or Utah Code 4-41a; or

f) failure to respond to violations.

4) The department shall calculate penalties based on the level of violation and the adverse effect or potential adverse effect at the time of the incidents giving rise to the violation.

5) The department may consider enhancing or reducing the penalty based on the seriousness of the violation.

KEY: marijuana, cannabis cultivation facility

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Authorizing, and Implemented or Interpreted Law: 4-41a-404(3); 4-41a-103(5); 4-41a-302(3)(b)(ii); 4-41a-701(2); 4-41a-405(2)(b)(iv); 4-2-103(1)(i); 4-41a-801(1)