

R68. Agriculture and Food, Plant Industry.

R68-27. Cannabis Cultivation.

R68-27-1. Authority and Purpose.

1) Pursuant to Subsections 4-41a-103(5), 4-41a-204(2)(e), 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 blueprint or diagram of the facility containing the following information:

- a) for indoor cannabis cultivation, the square footage of the area where cannabis is to be propagated;
- b) for indoor cannabis cultivation, the square footage of the area where cannabis is to be grown;
- c) the square footage of the area where cannabis is to be harvested;
- d) the area where cannabis is to be dried, trimmed, and cured;
- e) the square footage of the area 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 a storeroom;
- 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 area to be used for loading and unloading of cannabis product 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 emergency at the facility.

6) A cannabis cultivation facility operating plan shall include:

- a) a pest management plan;
- b) a description of when and how fertilizers are to be applied during the production process;
- c) procedures for 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 that is registered with the department when cannabis is:

- a) packaged for sale by weight;
 - b) bought and sold by weight; or
 - 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 ensuring proper and timely removal of litter and waste.
- 10) A cannabis cultivation facility shall compartmentalize each area in the facility based on function.
- 11) A cannabis cultivation facility shall limit access to the compartments to appropriate cannabis cultivation facility agents.

R68-27-5 Indoor and Outdoor Cannabis Cultivation Limitations.

- 1) A cannabis cultivation facility that cultivates cannabis only indoors may use no more than 100,000 square feet for cultivation.
- 2) A cannabis cultivation facility that cultivates cannabis only outdoors may use no more than four acres for cultivation.
- 3) Pursuant to Subsection 4-41a-204(2)(e), a cannabis cultivation facility that uses a combination of indoor and outdoor cultivation shall be subject to the following formula:
- a) the cannabis cultivation facility may use no more than a total of two acres outdoors and 50,000 square feet indoors for cultivation;
 - b) the cannabis cultivation facility may use less than two acres outdoors or 50,000 square feet indoors for cultivation, but may not exceed the indoor or outdoor limit.

R68-27-6. Security Requirements.

- 1) At a minimum, each cannabis cultivation facility shall have a security alarm system on each perimeter entry point and perimeter window.
- 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) Cameras at a cannabis cultivation facility shall:
- a) be fixed, and placement shall allow for the clear and certain identification of any person or activity in a controlled area; and
 - b) record continuously.
- 4) Controlled areas include:
- a) each entrance and exit, or ingress and egress vantage point;
 - b) each area within an indoor or outdoor room or area where cannabis is propagated, grown, harvested, dried, or trimmed;
 - c) each area where cannabis is stored; and
 - d) each area 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) Visitors to a cannabis cultivation facility shall be required to have a properly displayed identification badge issued by the facility while on the premises of the facility.

9) Cannabis cultivation facility visitors shall be escorted by a cannabis cultivation facility agent 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.

R68-27-7. Inventory Control.

1) Each 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 the phases of production.

2) Each 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, lot of usable cannabis trim, leaves, and other plant matter, cannabis product, test lot, harvest lot, 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) samples used for testing and the testing results;
- e) a complete inventory of cannabis, cannabis seeds, plant tissue, seedlings, clones, plants, trim or other plant material;
- f) the weight of harvested cannabis plants immediately after harvest;
- g) the weight and disposal of post-harvest waste materials;
- h) the identity of the individual 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 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.

R68-27-8. 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 cultivation facility 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 each cannabis cultivation facility agent has received department approved training pursuant to Section 4-41a-301.

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

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

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

R68-27-9. Pesticide and Fertilizer Use.

1) A cannabis cultivation facility shall maintain:

a) the material safety data sheet for any pesticide, fertilizer, or other agricultural chemical used in the production of cannabis which shall be accessible to any cannabis cultivation facility agent;

b) the original label or a copy thereof for each pesticide, fertilizer, or other agricultural chemical used in the production of cannabis; and

c) a log of each pesticide, fertilizer, or other agricultural chemical used in the production of cannabis.

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

3) Each pesticide, fertilizer, and other agricultural chemical is to be stored in a separate location apart from cannabis.

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

5) Fertilizer registered with the department under Title 4, Chapter 13, the Utah Fertilizer Act, may be used in the production and handling of cannabis.

6) Cannabis exposed to unauthorized pesticide, soil amendment, or fertilizer is subject to destruction at the cost of the cannabis cultivation facility.

R68-27-10. Transportation.

- 1) A printed transport manifest shall accompany each 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) the physical address and license number of the receiving location;
 - c) the strain name, quantity by weight, and unique identification number of each cannabis material to be transported;
 - d) the date and time of departure;
 - e) the estimated date and time of arrival; and
 - f) the name and signature of each cannabis production establishment 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 amount 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.

R68-27-11. 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 product;
 - b) evidence exists that residual solvents are present on or in cannabis or cannabis product;
 - c) evidence exists that harmful contaminants are present on or in cannabis or cannabis product; or
 - d) the department believes or has reason to believe the cannabis or cannabis product is 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) A 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.

R68-27-12. Minimum Requirements for the Storage and Handling of Cannabis.

- 1) Storage areas shall provide adequate lighting, sanitation, temperature, humidity, space, equipment, and security conditions for the storage of cannabis.
- 2) Stored cannabis shall be at least six inches off the ground.
- 3) Cannabis shall be stored away from 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.

R68-27-13. 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 is not considered hazardous waste unless it has been treated or contaminated with a solvent, or pesticide.
- 4) Cannabis waste shall be rendered unusable prior to leaving the cannabis cultivation facility.
- 5) Cannabis waste 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 by 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.

R68-27-14. 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.

R68-27-15. 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 may renew a license unless renewal would lead to a violation of the applicable laws and rules of the state.

R68-27-16. Violations Categories.

- 1) Public Safety Violations: \$3,000- \$5,000 per violation. This category is for violations that present a direct threat to public health or safety including:
 - a) use of unapproved pesticide or unapproved agricultural soil amendment;
 - 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 Title 4, Chapter 41a, Cannabis Production Establishments.

2) Regulatory Violations: \$1,000 - \$5,000 per violation. This category is for violations involving this rule and other applicable state rules:

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 Title 4, Chapter 41a, Cannabis Production Establishments 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:

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 Title 4, Chapter 41a, Cannabis Production Establishments; 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

Date of Enactment or Last Substantive Amendment: 2020

Authorizing, and Implemented or Interpreted Law: 4-41a-404(3); 4-41a-103(5); 4-41a-204(2)(e); 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)