

## **R68. Agriculture and Food, Plant Industry.**

### **R68-24. Industrial Hemp License for Growers.**

#### **R68-24-1. Authority and Purpose.**

Pursuant to Section 4-41-103(4), this rule establishes the standards, practices, procedures, and requirements for participation in the Utah Industrial Hemp Program for the growing and cultivation of industrial hemp.

#### **R68-24-2. Definitions.**

1) "Acceptable hemp THC level" means a total composite tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis if laboratory testing confirms a result within a measurement of uncertainty that includes the total composite tetrahydrocannabinol concentration of 0.3 %.

2) "Community Location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

3) "Department" means the Utah Department of Agriculture and Food.

4) "Growing Area" means a contiguous area on which hemp is grown whether inside or outside.

5) "Handle" or "handling" means the action of cultivating or storing hemp plants or hemp plant parts prior to the delivery of the plants or plant parts for processing.

6) "Harvesting" means removing industrial hemp plants from final growing condition and physically or mechanically preparing plant material for storage or wholesale.

7) "Industrial Hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by weight.

8) "Licensee" means a person authorized by the department to grow industrial hemp.

9) "Measurement of Uncertainty" means 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) "THC" means total composite tetrahydrocannabinol, including delta -9-tetrahydrocannabinol and tetrahydrocannabinolic acid.

#### **R68-24-3. Grower License Application Requirements.**

1) The applicant shall be a minimum of 18 years old.

2) The applicant is not eligible to receive a license if they have been convicted of a felony or its equivalent within the last ten years.

3) An applicant seeking an industrial hemp cultivation license shall submit the following to the department:

a) a completed application form provided by the department;

b) the legal description of the growing area;

c) the global positioning coordinates for the center of the outdoor growing area;

d) maps of the growing area in acres or square feet, and the location of different varieties within the growing area;

e) a statement of the intended end use or disposal for parts of the hemp plant grown; and

f) a plan for the storage of seed or clone and harvested industrial hemp material as specified in Section R68-24-7.

4) An applicant shall submit a nationwide criminal history from the FBI completed within three months of their application.

- 5) The applicant shall submit a fee as approved by the legislature in the fee schedule.
- 6) The department shall deny any applicant who does not submit the required information.

**R68-24-4. Growing Area.**

- 1) A licensee shall not plant or grow industrial hemp on any site not listed on the grower license application and shall take immediate steps to prevent the inadvertent growth of industrial hemp outside of the authorized grow area.
- 2) A licensee shall not grow hemp in any structure used for residential purposes.
- 3) A licensee shall not handle or store leaf, viable seed, or floral material from hemp in a structure used for residential purposes.
- 4) A licensee shall not grow industrial hemp outdoors within 1,000 feet of a community location.
- 5) The licensee shall post signage at the plot location's entrance and where the plot is visible to a public roadway in a manner that would reasonably be expected to be seen by a person in the area.
  - 6) The signage shall include the following information:
    - a) the statement, "Utah Department of Agriculture Industrial Hemp Program";
    - b) the name of the licensee;
    - c) the Utah Department of Agriculture and Food licensee number; and
    - d) the department's telephone number.

**R68-24-5. Reporting Requirements.**

- 1) Within ten days of planting the licensee shall submit a Planting Report, on a form provided by the department, that includes:
  - a) a list of industrial hemp varieties and other plants in the growing area which were planted;
  - b) the actual acres planted or the seeding rate or number of clones planted in the growing area;
  - c) adjusted maps and global position coordinates for the area planted; and
  - d) the amount of seed that was not used.
- 2) 30 days prior to harvest the licensee shall submit a Harvest Report, on a form provided by the department, that includes:
  - a) any contracts entered into between the grower and an industrial hemp processor or a statement of the intended use of industrial hemp cultivated in the growing area;
  - b) any intended storage areas for industrial hemp or industrial hemp material; and
  - c) the harvest dates and location of each variety cultivated in the growing areas;
  - i) the licensee shall immediately inform the department of any changes in the reported harvest date which exceeds five days.
- 3) 30 days after completion of harvest the licensee shall submit a Production Report, on a form provided by the department, which includes:
  - a) yield from the growing area;
  - b) THC testing reports, if any, conducted at the licensee's request;
  - c) water application rates;
  - d) report of any pest infestations or problems; and
  - e) a statement on the final disposition of the industrial hemp product in the growing area.
- 4) Failure to submit the required reports may result in the revocation of the grower license.

**R68-24-6. Inspection and Sampling.**

- 1) The growing area shall be subject to random sampling to verify the THC concentration does not exceed the acceptable hemp THC levels by department officials.
- 2) The department shall have complete and unrestricted access to industrial hemp plants and seeds whether growing or harvested, and to land, buildings, and other structures used for the cultivation or storage of industrial hemp.
- 3) Samples of each variety of industrial hemp shall be randomly sampled from the growing area by department officials.
- 4) The department shall conduct the laboratory testing on the sample to determine the THC concentration on a dry weight basis.
- 5) The sample taken by the department shall be the official sample.
- 6) The department shall test the growing area within 30 days prior to harvest.
- 7) The department shall notify the licensee of the test results from the official sample within a reasonable amount of time.
- 8) The test results from the department shall contain a measurement of uncertainty.
- 9) Any laboratory test that exceeds the acceptable hemp THC level may be considered a violation of the terms of the license and may result in license revocation and issuance of a citation.
- 10) Upon a test result with greater than the acceptable hemp THC level, the department shall notify the grower.
- 11) The department will coordinate with the appropriate law enforcement agency regarding any laboratory test result with 1% THC or greater, and revocation of the license for the remaining calendar year will be immediate.

**R68-24-7. Storage of Industrial Hemp and Hemp Material.**

- 1) A licensee may store hemp and hemp material provided:
  - a) the licensee notifies the department, in writing, of the location of the storage facility;
  - b) the licensee informs the department of the type and amount of product being stored in the storage facility;
  - c) the storage facility is outside of the public view;
  - d) the storage facility is secured with physical containment and reasonable security measures; and
  - e) the storage facility is not within 1,000 feet of a community location.
- 2) The storage area is subject to random inspection by department officials.

**R68-24-8. Transportation of Industrial Hemp Materials.**

- 1) A licensee shall not transport any industrial hemp materials, except to a storage facility, until the department has notified the licensee of the test results from the growing area.
- 2) An industrial hemp transportation permit is required for each day and each vehicle used to move industrial hemp or industrial hemp products.
- 3) The licensee shall submit an industrial hemp transportation permit request form provided by the department.
- 4) Requests for an industrial hemp transportation permit shall be submitted to the department at least five business days prior to movement.
- 5) An industrial hemp transportation permit authorizes the transportation of industrial hemp materials only within the borders of the state.

6) The department may deny any application for a movement permit that is not completed in accordance with this rule.

**R68-24-9. Restrictions on the Sale and Transfer of Industrial Hemp and Hemp Materials.**

1) A licensee shall not sell or transfer living plants, viable plants, viable seeds, leaf material, or floral material to any person not licensed by the department or to any person outside the state who is not authorized by the laws of that state or United States Department of Agriculture.

2) The licensee may sell or transfer stripped stalks, fiber, and nonviable seed to the general public provided the hemp material has an acceptable hemp level.

**R68-24-10. Renewal.**

1) A licensee shall resubmit documents required in Section R68-24-3, with updated information, before December 31st of the current year.

2) The department may deny a renewal for an incomplete application.

3) The department may deny renewal for any licensee who has violated any portion of this rule or state law.

**R68-24-11 Extension.**

1) The department may extend the term of a license for up to 90 days, provided that:

a) the licensee requests an extension prior to the end of the original license term; and

b) the licensee reports to the department;

i) the amount of industrial hemp they possess at the end of the original license term; and

ii) the planned disposition of the remaining industrial hemp.

2) Under an extended license, the licensee shall not grow or process industrial hemp, but may store and sell industrial hemp harvested during the previous growing season.

3) The licensee shall submit a license extension fee as approved by the legislature in the fee schedule.

4) The licensee continues to be subject to inspection by the department.

**R68-24-12. Destruction of Industrial Hemp Material.**

1) The department shall be responsible for the destruction of any plant material which tests above the acceptable hemp THC level.

2) The licensee shall work with the department on an approved plan for the destruction of the plant material.

3) The department may destroy the plant material at cost to the licensee.

4) The department may inspect the growing area to verify the destruction of plant material.

**R68-24-13. Violations.**

1) A licensee shall not grow industrial hemp that tests greater than the acceptable hemp THC level on a dry weight basis.

2) A licensee shall not possess, sell, transfer, or transport industrial hemp material that tests greater than the acceptable hemp THC level on a dry weight basis.

3) It is a violation of the grower license to grow or store industrial hemp or industrial hemp material on a site not approved by the department as part of the license.

4) A licensee shall not allow unsupervised public access to hemp plots.

5) A licensee shall not deny an official of the department access for sampling or inspection purposes.

6) A licensee shall not violate any portion of this rule or state law.

7) It is a violation of this rule to grow, cultivate, handle, or possess industrial hemp or viable industrial hemp materials without a license from the department.

9) It is a violation to grow industrial hemp material on a site not approved by the department as listed on the license.

10) It is a violation to grow industrial hemp outdoors within 1,000 feet of a community location.

**KEY: industrial hemp cultivation**

**Date of Enactment or Last Substantive Amendment: 2020**

**Authorizing, and Implemented or Interpreted Law: 4-41-103(4)**