

DAR FILE NO. 38855

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Agriculture and Food, Plant Industry

Rule R68-22

Industrial Hemp Research

NOTICE OF PROPOSED RULE

(New Rule)

DAR File No.: 38855

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RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE:

The purpose of this rule is to be in compliance with H.B. 105 which passed in the 2014 General Legislative Session and became law under Sections 4-41-101 to 4-41-103.

SUMMARY OF THE RULE OR CHANGE:

Establishes criteria for department-certified higher education institutions to grow industrial hemp for agricultural or academic research.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:

- Section 4-41-101

ANTICIPATED COST OR SAVINGS TO:

the state budget:

There will be costs for the Department of Agriculture and Food to administer the program. The cost of reviewing the applications, monitoring during production, taking samples, the Department analyzing the samples, monitoring during harvest, and ensuring proper disposal of the product.

local governments:

There will be no cost to local government associated with this rule. The only costs will be to higher education institutions who want to conduct agricultural or academic research.

small businesses:

There will be no cost to small businesses associated with this rule. The only costs will be to higher education institutions who want to conduct agricultural or academic research.

persons other than small businesses, businesses, or local governmental entities:

There will be no cost to small businesses, businesses, local governments, or individuals from the implementation of this rule. The only costs will be to higher education institutions who want to conduct agricultural or academic research.

COMPLIANCE COSTS FOR AFFECTED PERSONS:

Currently there are no compliance costs for individuals affected by this rule as no fees are built into the fee schedule. In the future, there may be costs for the Department to conduct inspections and conduct analysis at the chemistry lab. These fees are yet to be determined and will be dependent on interest expressed by higher education institutions research staff.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:

The Department anticipates no fiscal impacts to small businesses, local governments, or individuals from the implementation of this rule. The only costs will be to higher education institutions who want to conduct agricultural or academic research on industrial hemp. This rule is comply with H.B. 105 (2014) that was passed in the last legislative session.

LuAnn Adams, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT THE DIVISION OF ADMINISTRATIVE RULES, OR AT:

Agriculture and Food
Plant Industry
350 N REDWOOD RD
SALT LAKE CITY, UT 84116-3034

DIRECT QUESTIONS REGARDING THIS RULE TO:

- Clark Burgess at the above address, by phone at 801-538-7188, by FAX at 801-538-7189, or by Internet E-mail at cburgess@utah.gov
- Kathleen Mathews at the above address, by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
- Robert Hougaard at the above address, by phone at 801-538-7187, by FAX at 801-538-7189, or by Internet E-mail at rhougaard@utah.gov
- Scott Ericson at the above address, by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at sericson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON:

11/14/2014

THIS RULE MAY BECOME EFFECTIVE ON:

11/21/2014

AUTHORIZED BY:

LuAnn Adams, Commissioner

RULE TEXT

R68. Agriculture and Food, Plant Industry.

R68-22. Industrial Hemp Research.

R68-22-1. Authority and Purpose.

Pursuant to Section 4-41-103, this rule establishes the standards, practices, and procedures of the Industrial Hemp Certificate.

R68-22-2. Definitions.

(1) "Academic Research": means growth of industrial hemp for seed stock from parent material intended for varietal development, phytoremediation, and agronomic practices.

(2) "Agricultural Research": means growth of industrial hemp for the purpose of discovering and enabling development of useful processes, information, and products.

(3) "Applicant(s)": means a person, or group of persons from a higher education institution who apply for an Industrial Hemp Certificate from the Utah Department of Agriculture and Food.

(4) "Department": means the Utah Department of Agriculture and Food

(5) "Growing Area": means the area on which the hemp is grown, inside or outside.

(6) "Industrial Hemp": means the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

(7) "Industrial Hemp Certificate": means a certificate issued by the department to a higher education institution granting authorization to grow and/or cultivate industrial hemp for research purposes.

(8) "Research Plan": means a plan stating the objective(s) and purpose(s) of the research being proposed, methods and procedures for carrying out the research, the name(s) and telephone number(s) for the faculty adviser(s), the institution's name and address, and the names of all applicant(s) involved in the project.

(9) "Security Plan": means a plan stating the methods, procedures, and policies the applicant shall use to prevent the use and transfer of industrial hemp for purposes other than those listed in research plan.

R68-22-3. Application for Industrial Hemp Certificate.

(1) Applicant(s) seeking certification shall submit the following to the Department:

(a) A research plan.

(b) A description of the industrial hemp varieties to be planted on the growing area(s).

(c) The legal description of the growing area(s).

(d) Physical address.

(e) The global positioning coordinates for the center of the growing area(s).

(f) Maps of the growing area showing the boundaries and dimensions of the growing area(s) in acres or square feet, and the location of the different varieties within the growing area(s).

(g) A criminal history and background checks for all applicant(s) participating in the project, and

(h) A security plan.

(2) Applicant(s) acknowledge and agree to the following:

(a) Any information provided to the Department may be provided to law enforcement agencies without notice.

(b) Applicant(s) will comply with all the terms and conditions of certificate, state, and federal laws, and

(c) Applicant(s) will allow department officials and law enforcement officers on the growing area(s) at any time.

R68-22-4. Terms of the Certificate.

(1) The term of the Certificate is one calendar year beginning in January and ending in December. A person seeking more than one year shall reapply for certification each year.

(2) Prior to each planting, applicant(s) shall provide the department with a statement verifying:

- (a) That the type and varieties to be planted in the growing area(s),
- (b) The location of all growing area(s), and
- (c) The amount to be planted in each location.
- (3) 7 days prior to harvest, applicant(s) shall provide the department with a statement of the intended disposition of the crop.
- (4) Applicant(s) shall take all necessary measure to avoid the inadvertent dissemination of industrial hemp.

R68-22-5. Inspection and Revocation of Certification.

- (1) Growing area(s) are subject to random sampling to verify the THC concentration does not exceed 0.3% on a dry weight basis by department officials.
- (2) Department and law enforcement official(s) shall have complete and unrestricted access to all industrial hemp plants and seeds whether growing or harvested, all land, buildings and other structures used for the cultivation and storage of industrial hemp.
- (3) Samples of each variety of industrial hemp may be sampled from each growing area(s) at the department's discretion.
- (4) The department will conduct the laboratory testing on the samples to determine the THC concentration on a dry weight basis.
- (5) The department shall test each of the growing area(s) two weeks prior to harvest.
- (a) The Applicant shall notify the department at least 3 weeks prior to harvest.
- (6) Any laboratory test result of greater than 0.3% may be considered a violation of the terms of the certificate. Upon receipt of such a test the department may revoke the certificate.
- (7) Upon a test result of greater than 0.3% the department shall:
 - (a) Notify the faculty advisor of all test results.
 - (b) Allow for additional testing to be done at the request of the faculty advisor.
 - (i) Faculty advisor shall notify the department, in writing, within ten days if they are seeking additional testing.
 - (c) Supervise the destruction of the industrial hemp crop, and
 - (d) Send notification of revocation to the faculty advisor within 30 days if a determination is reached to suspend the certificate.
- (8) Any laboratory test with a result of 1.0% or greater will be turned over to the appropriate law enforcement agency and revocation of the certificate will be immediate.

R68-22-6. Renewal.

- (1) Certification shall be renewed on a year to year basis.
- (2) Applicant(s) seeking renewal of the Industrial Hemp Certification shall resubmit all documents required for certification, with any updated information, 30 days prior to the expiration of the current year certificate.

KEY: hemp, industrial hemp, research

Date of Enactment or Last Substantive Amendment: 2014

Authorizing and Implemented or Interpreted Law: 4-41-101

ADDITIONAL INFORMATION

More information about a **Notice of Proposed Rule** is available online.

The Portable Document Format (PDF) version of the Bulletin is the official version. The PDF version of this issue is available at <http://www.rules.utah.gov/publicat/bull-pdf/2014/b20141001.pdf>. The HTML edition of the Bulletin is a convenience copy. Any discrepancy between the PDF version and HTML version is resolved in favor of the PDF version.

Text to be deleted is struck through and surrounded by brackets ([example]). Text to be added is underlined (example). Older browsers may not depict some or any of these attributes on the screen or when the document is printed.

For questions regarding the content or application of this rule, please contact Clark Burgess at the above address, by phone at 801-538-7188, by FAX at 801-538-7189, or by Internet E-mail at cburgess@utah.gov; Kathleen Mathews at the above address, by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov; Robert Hougaard at the above address, by phone at 801-538-7187, by FAX at 801-538-7189, or by Internet E-mail at rhougaard@utah.gov; Scott Ericson at the above address, by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at sericson@utah.gov. For questions about the rulemaking process, please contact the Division of Administrative Rules.

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