

R66. Agriculture and Food, [Medical Cannabis and Industrial Hemp] Specialized Products.

R66-29. Compliance Procedures.

R66-29-1. Authority and Purpose.

- (1) This rule is promulgated under authority of Subsection 4-2-103(1)(j) and Section 4-2-302.
- (2) This rule establishes the division's use of hold orders, the issuing of citations, and requests for a hearing.

R66-29-2. Definitions.

- (1) "Cease-and-Desist order" means a written order issued by the division requiring a respondent to cease-and-desist violations and directing that positive steps be taken to mitigate any harm or damage arising from the violation.
- (2) "Citation" means a lawful notice, issued by the division, that is intended to immediately remedy a violation of agricultural statute or rule by a person, pursuant to Sections 4-2-304, 4-41-106, and 4-41a-801. A citation may include a penalty assessment or provide for a fine to take effect within a stated period.
- (3) "Commissioner" means the Commissioner of the Utah Department of Agriculture and Food or the commissioner's designee.
- (4) "Department" means the Utah Department of Agriculture and Food.
- (5) "Division" means the Specialized Products Division [of Medical Cannabis and Industrial Hemp] in the department.
- (6) "Hold Order" means a written action by the division, that is issued to a person because of information that is known by the division, that identifies:
 - (a) a danger to the public's health, safety or welfare, and warrants prompt action; or
 - (b) a violation of statute or rule.

R66-29-3. Hold Order.

- (1) The division may issue a hold order when it determines that there is an immediate and significant danger to public health, safety, or welfare. The hold order may be issued to secure the well-being, safety, or removal of danger to state citizens.
- (2) Hold orders are intended to protect the public from unlawful agricultural and food products and services.
- (3) When a hold order is justified, and conditions warrant immediate action by the division, the division shall promptly issue a written order that includes:
 - (a) the name, street address, city, state, zip-code, phone-number, and title or position of the person, business, organization, corporation, firm, or limited liability company being given the order;
 - (b) a brief statement of findings of fact as determined by the division;
 - (c) references to statutes or administrative rules violated;
 - (d) the reasons for issuance of the hold order;
 - (e) products and services subject to the hold order;
 - (f) corrective action required;
 - (g) the signature of the agencydepartment representative; and
- (h) a space or line for the signature of the person being given the order, although a signature is not needed if the person refuses.
- (4) No product, condition, or service subject to the order shall be released, except upon written release by the department.
- (5) Pursuant to Subsection 4-2-304(2) the person subject to the written order may be required to pay the expense incurred by the department in connection with the withdrawal of the product, condition, or service from the market.

R66-29-4. Citation.

- (1) The commissioner may enforce this rule by the issuance of a citation for violation to secure payments of fines or the imposition of penalties.
- (2) The citation shall include:
 - (a) the name, street address, city, state, zip-code, phone-number, and title or position of the person, business, organization, corporation, firm, or limited liability company being given the order;
 - (b) references to the statutes or rules violated;
 - (c) a brief statement of findings of fact as determined by the division;
 - (d) a penalty or fine amount;
 - (e) the signature of the division representative;
 - (f) corrective action required; and
- (g) a statement that the person is allowed to request an administrative hearing if the person feels that a citation was not warranted.

(3) Fine or penalty amounts shall be set by the department or the division, under the direction of the commissioner, for amounts up to \$5,000 per violation, or if the citation involves a criminal proceeding, the person may be found guilty of a class B misdemeanor.

(4) For violations of Chapter 4-41 Hemp and Cannabinoid Act:

(a) if the citation is not paid within 30 days, the penalty shall be two times the citation amount; and

(b) if the citation is not paid within 60 days, the penalty shall be four times the citation amount.

(5) For violations of Chapter 4-41a Cannabis Production Establishments:

(a) if the citation is not paid within [20] 30 days, the penalty shall be two times the citation amount; and

(b) if the citation is not paid within [40] 60 days, the penalty shall be four times the citation amount.

(6) For violations of Chapter 4-45 Kratom Consumer Protection Act:

(a) if the citation is not paid within 30 days, the penalty shall be two times the citation amount; and

(b) if the citation is not paid within 60 days, the penalty shall be four times the citation amount.

R66-29-5. Cease-and-Desist Order.

(1) The division may issue a cease-and-desist order upon discovery of a suspected violation of the code or administrative rules.

(2) The cease-and-desist order shall:

(a) include the name, street address, city, state, zip-code, phone-number, and title or position of the person, business, organization, corporation, firm, or limited liability company being given the order;

(b) include references to the statutes or rules violated;

(c) describe the act or course of conduct that is prohibited by the cease-and-desist order;

(d) order the respondent to immediately cease the prohibited act or prohibited course of conduct;

(e) specify corrective action required; and

(f) take effect immediately upon the date issued or within such time as specified by the division.

R66-29-6. Suspension of License.

(1) The division may suspend a license or permit upon discovery that a person has failed to meet any legal, financial, or operational requirements required by statute or administrative rules.

(2) The division shall provide the licensee with a notice outlining the violations and the suspension, that includes:

(a) the name, street address, city, state, zip-code, phone-number, and title or position of the person, business, organization, corporation, firm, or limited liability company being given the order;

(b) references to the statutes or rules violated;

(c) an order that the licensee immediately cease operations related to the license; and

(d) corrective action required.

(e) The suspension shall take effect immediately upon the date issued or within a time specified by the division.

R66-29-7. Request for Hearing.

(1) When any order or citation is issued, the person being charged with the violation may elect to file, within allowable time limits, a request for the department to schedule an informal administrative hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act, and Rule R51-2.

(2) A request for a hearing suspends the timeline referenced in Subsections R66-29-4(4), [and] R66-29-4(5) and R66-29-4(6).

KEY: industrial hemp, medical cannabis

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Authorizing, and Implemented or Interpreted Law: 4-2-103(1)(j)