

CHAPTER 44:90:03
REGISTRATION CERTIFICATES

Section

- 44:90:03:01 Initial application for registration certificate.
- 44:90:03:02 Certificate renewal -- Application.
- 44:90:03:03 Certificate location transfer -- Application.
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- 44:90:03:05 Operating procedures -- Required contents -- All medical cannabis establishments.
- 44:90:03:06 Cannabis cultivation facility operating procedures -- Additional requirements.
- 44:90:03:07 Cannabis testing facility operating procedures -- Additional requirements.
- 44:90:03:08 Cannabis product manufacturing facility operating procedures -- Additional requirements.
- 44:90:03:09 Cannabis dispensary operating procedures -- Additional requirements.
- 44:90:03:10 Compliance with local zoning requirements -- Form of certification.
- 44:90:03:11 Local registration, license, or permit -- Department verification.
- 44:90:03:12 Deadline to submit initial applications for establishments.
- 44:90:03:13 No registration certificate revocation -- Department verification.
- 44:90:03:14 No disqualifying felonies -- Form of certification.
- 44:90:03:15 Department review of competitive applications -- Scoring criteria.
- 44:90:03:16 Department awarding of certification -- Tiebreaking procedures -- Notice to unsuccessful applicants.

44:90:03:17 Fees for registration certificate -- Application and renewal.

44:90:03:16. Department awarding of certification -- Tiebreaking procedures -- Notice to unsuccessful applicants. The department shall award certification as follows:

(1) If more establishments apply than are allowed by a local government, the department shall award the establishment with the highest score pursuant to § 44:90:03:15 a registration certificate;

(2) If the local government has enacted an overall limit on the number of establishments, the department shall award registration certificates, in order of final score beginning with the highest score attained pursuant to § 44:90:03:15, until the limit is reached;

(3) If the local government has enacted a limit on establishments by establishment type, the department shall award registration certificates, in order of final score beginning with the highest score attained pursuant to § 44:90:03:15, until the limit is reached for each establishment type;

(4) If applicants are tied for one or more openings in a locality, the affected applicants and interested members of the public shall have the opportunity to view, in person or via videoconference, a random drawing to determine the successful applicants. All applicants will be ranked via the lottery system to establish the order and establish a waiting list.

Any establishment granted a certificate pursuant to this section must become operational within one year of date of award or the certificate is deemed void and will be awarded to the next applicant on the waiting list. If the establishment granted a certificate pursuant to this section cannot become operational within one year, then it may submit to the department at least two weeks prior to the expiration of the certificate, written documentation of the efforts made to meet the deadline. Such documentation should include the steps taken by the establishment to secure

equipment and services necessary to become operational, as well as the reason why the establishment is unable to meet the deadline. Upon a finding that despite the certificate holder's documented timely efforts to secure all necessary equipment and services, certain equipment or work necessary to operate will not be available or complete by the one year anniversary of the date of award, the department may grant the establishment an extension of time by which the establishment must become operational. The extension will be for one additional year, meaning the establishment must become operational within two years of the date of the initial award of certificate. No further extensions will be granted.

The notification of any unsuccessful applicants must identify the department's decision as a final department action subject to the contested case procedures pursuant to SDCL chapter 1-26.

Source: 48 SDR 40, effective October 5, 2021.

General Authority: SDCL 34-20G-72(3).

Law Implemented: SDCL 34-20G-56, 34-20G-72(3).

CHAPTER 44:90:04

ESTABLISHMENTS

Section

- 44:90:04:01 Change in management -- Duty to report.
- 44:90:04:02 Corrective and preventive action -- Written procedures.
- 44:90:04:03 Duty to report criminal activity to department and law enforcement.
- 44:90:04:04 Co-location of medical cannabis establishments.
- 44:90:04:05 Lighting.

- 44:90:04:06 Doors and windows.
- 44:90:04:07 Placement of security cameras.
- 44:90:04:08 Recording by security cameras -- Access by department.
- 44:90:04:09 Storage of camera footage.
- 44:90:04:10 Alarm system.
- 44:90:04:11 Agent identification badges to be provided by establishments.
- 44:90:04:12 Agent identification badges to be displayed.
- 44:90:04:13 Controlled access -- Verification of identity.
- 44:90:04:14 Visitor badges to be worn by contractors performing work at a medical cannabis establishment.
- 44:90:04:15 Operation of agricultural, industrial, or other heavy equipment – Training requirements.
- 44:90:04:16 Record-keeping -- Use of inventory tracking system -- Training requirements.
- 44:90:04:17 Security protocols -- Training requirements.
- 44:90:04:18 Vehicle requirements -- Establishments.
- 44:90:04:19 Transport manifests -- Form and content.
- 44:90:04:20 Separate transport manifest required.
- 44:90:04:21 Storage during transport.
- 44:90:04:22 Conduct during transport.
- 44:90:04:23 Transport incident notification.
- 44:90:04:24 Health and safety standards for storage.
- 44:90:04:25. Transportation to the Public Health Laboratory.

44:90:04:11. Agent identification badges to be provided by establishments. A medical cannabis establishment shall provide an agent identification badge to each agent. The establishment shall include on the badge:

(1) The agent's photograph that meets the requirements of § 44:90:02:04(3), except that the photo may be as small as 7/8 inch by 1 and 5/32 inches; and

(2) In a plain black font not less than 24 16 point:

(a) The first and last name of the agent; and

(b) The name of the establishments.

Each agent shall display this badge whenever on the premises of the establishment or transporting cannabis, or cannabis products.

Source: 48 SDR 40, effective October 5, 2021.

General Authority: SDCL 34-20G-72(5)(g).

Law Implemented: SDCL 34-20G-72(5).

44:90:04:25. Transportation to the Public Health Laboratory. A medical cannabis testing facility that is directed by the department to transfer cannabis to the Public Health Laboratory for testing pursuant to § 44:90:06:08 may transport the cannabis by use of a courier service designated by the Public Health Laboratory in tamper resistant packaging, or as otherwise directed by the Public Health Laboratory. The rules in this chapter pertaining to transport requirements are not required when the cannabis is being transported to the Public Health Laboratory.

Source:

General Authority: SDCL 34-20G-72(5)(f).

Law Implemented: SDCL 34-20G-72(5).

CHAPTER 44:90:07

CANNABIS PRODUCT MANUFACTURING FACILITIES

Section

- 44:90:07:01 Manufacturing practices.
- 44:90:07:02 Work environment.
- 44:90:07:03 Cannabis product nonusable.
- 44:90:07:04 Prohibited manufacturing activities.
- 44:90:07:05 Extraction -- Approved operating procedures.
- 44:90:07:06 Generally safe concentration methods.
- 44:90:07:07 Potentially hazardous extraction methods.
- 44:90:07:08 Extraction using inherently hazardous substances.
- 44:90:07:09 Edible cannabis products.

44:90:07:08. Extraction using inherently hazardous substances. Before performing extraction using an inherently hazardous substance, the establishment must have prior physical inspection and written approval by an engineer licensed pursuant to SDCL chapter 36-18A that the establishment's storage, preparation, electrical, gas monitoring, fire suppression, and exhaust systems are adequate for the extraction methods and substances used.

Any extraction method using inherently hazardous substances must be listed in the operating procedures on file with the department and use a substance of 99 percent or greater purity. The resulting extract must not exceed residual limits for the substance established by the department as part of testing requirements.

The following solvents may be used in approved inherently hazardous extraction:

- (1) Butane;
- (2) Propane;
- (3) Acetone;
- (4) Heptane; or
- (5) Pentane.

The use of any inherently hazardous substance other than butane, propane, acetone, heptane, or pentane requires written approval of the department, upon documentation of the safety and efficacy of the selected method. All flammable gas must be ~~odorized~~ stored and handled in accordance with all applicable safety standards contained in local ordinance, SDCL chapter 11-10, article 61:15, and chapter 20:44:22.

Source: 48 SDR 40, effective October 5, 2021.

General Authority: SDCL 34-20G-72(5)(e)(h).

Law Implemented: SDCL 34-20G-72(5).

CHAPTER 44:90:13

PETITIONS TO RECOGNIZE DEBILITATING MEDICAL CONDITIONS

Section

44:90:13:01 Petitions -- Required forms.

44:90:13:02 Department's decision.

44:90:13:02. Department's decision. The department's written decision to approve or deny a petition shall be issued within 180 days of submission and must include the factors supporting the decision, including whether the written petition, public testimony, written comments, peer-reviewed research, and consultation with practitioners support the following conclusions:

(1) The proposed medical condition is recognized by the medical profession as a serious and chronic medical condition;

(2) ~~Treatments currently available for the proposed condition are either ineffective or produce harmful side effects; and~~

(3) Medical use of cannabis ~~will~~ is likely to provide therapeutic or palliative benefits that outweigh the risks of cannabis use.

A qualifying medical condition shall be recognized through rules promulgated by the department pursuant to chapter 1-26.

Source: 48 SDR 40, effective October 5, 2021.

General Authority: SDCL 34-20G-72(1).

Law Implemented: SDCL 34-20G-26.