

R68. Agriculture and Food, Plant Industry.

R68-31. Cannabis Licensing Process.

R68-31-1. Authority and Purpose.

Pursuant to sections 4-41a-201(2)(iii) and 4-2-103, this rule establishes the Cannabis Establishment Licensing Board and the process for issuing a cannabis production establishment license.

R68-31-2. Definitions.

- 1) "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, a cannabis processing facility, or a medical cannabis research licensee.
- 2) "Cannabis processing facility" means a person that:
 - a) acquires or intends to acquire cannabis from a cannabis production establishment or a holder of an industrial hemp processor license under Title 4, Chapter 41, Hemp and Cannabinoid Act;
 - b) possesses cannabis with the intent to manufacture a cannabis product;
 - c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and
 - d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.
- 3) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.
- 4) "Department" means the Utah Department of Agriculture and Food.
- 5) "Independent cannabis testing laboratory" means a person that:
 - a) conducts a chemical or other analysis of cannabis or cannabis product; or
 - b) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

R68-31-3. Cannabis Production Establishment Licensing Board Established.

- 1) The department shall establish a Cannabis Production Establishment Licensing Board to evaluate cannabis production establishment applications and issue cannabis production establishment licenses.
- 2) The Cannabis Production Establishment Licensing Board shall be composed of six members:
 - a) the Commissioner of the department or designee;
 - b) the Deputy Commissioner of the department;
 - c) the Cannabis and Industrial Hemp Division Director;
 - d) the Regulatory Services Division Director;
 - e) the State Chemist and Laboratory Division Director; and
 - f) the Plant Industry Division Director.
- 3) The commissioner or the commissioner's designee shall serve as chair of the Cannabis Production Establishment Licensing Board.
- 4) The commissioner or the commissioner's designee may not vote except in the event of a tie, in which case the commissioner or the commissioner's designee shall cast the deciding vote.
- 5) Attendance of four members of the Cannabis Production Establishment Board shall constitute a quorum.

R68-31-4. Duties of the Cannabis Production Establishment Licensing Board.

- 1) The Cannabis Production Establishment Licensing Board is responsible for the issuing of any type of cannabis production establishment license.
- 2) The Cannabis Production Establishment Board shall:
 - a) review the application for compliance with:
 - i) Utah Code Title 4, Chapter 41a;
 - ii) R68-30; and
 - iii) R68-27;
 - iv) R68-28; or
 - v) R68-29;
 - b) conduct a public hearing to consider the applications;
 - c) approve the department's license application forms and checklists; and
 - d) make a determination on the application.
- 3) The commissioner shall schedule a public hearing of the Cannabis Production Establishment Licensing Board as necessary based on the recommendation of the department.
- 4) The department's licensing authority is plenary and is not subject to review pursuant to Utah Code 4-41a-201(13).

R68-31-5. Cannabis Production Establishment Licensing Board Electronic Meetings.

- 1) The following provisions govern any meeting at which at least four Cannabis Production Establishment Licensing Board members appear at an anchor location, by telephone, or electronically pursuant to Section 52-4-207.
 - a) If at least four members intend to participate electronically or by telephone, public notice of the meeting shall be posted.
 - b) The notice shall specify the anchor location where the members of the Cannabis Production Establishment Licensing Board not participating electronically or by telephone will be meeting and where interested persons and the public may attend, monitor, and participate in the open portions of the meeting.
 - c) Notice of the meeting and the agenda shall be posted at the anchor location. Written or electronic notice shall also be posted on the Public Notice Website. These notices shall be provided at least 24 hours before the meetings.
 - d) Notice of the possibility of an electronic meeting shall be given to the Cannabis Production Establishment Licensing Board members at least 24 hours before the meeting. The notice shall describe how a member may participate in the meeting electronically or by telephone.

- e) When notice is given of the possibility of a member appearing electronically or by telephone, any member may do so and shall be counted as present for purposes of a quorum and may fully participate and vote on any matter coming before the Cannabis Production Establishment Licensing Board.
- f) At the commencement of the meeting, or at such time as any member initially appears electronically or by telephone, the chair shall identify for the record all those who are appearing by telephone or electronically.
- g) Votes by members of the Cannabis Production Establishment Licensing Board who are not at the physical location of the meeting shall be confirmed by the chair.
- h) The anchor location, unless otherwise designated in the notice, shall be at the offices of the Department of Agriculture and Food.
- i) The anchor location is the physical location from which the electronic meeting originates or from which the participants are connected.
- ii) The anchor location shall have space and facilities so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

R68-31-[5]6. Application for Cannabis Processing Facility and Independent Cannabis Testing Laboratory.

- 1) No cannabis processing facility or independent cannabis testing laboratory license application shall be recommended to the Cannabis Production Establishment Licensing Board for consideration until:
 - a) a complete application including all documents and supplemental materials on the department's application checklist have been submitted to the department;
 - b) a department official has inspected the premises; and
 - c) a department official has conducted an investigation as described in R68-31-7.
- 2) An incomplete application will be returned to the applicant.
- 3) The department shall forward to the Cannabis Production Establishment Licensing Board the information and recommendation to aid in the license determination.

R68-31-[6]7. Cannabis Cultivation Facility Application.

- 1) The department shall accept application for a cannabis cultivation facility license in January, April, July, and October of each year.
- 2) Applications for a cannabis cultivation facility will be considered as needed based on the market need and available licenses.
- 3) Applications shall be voided at the end of December each year.
- 4) The application fee shall be paid for each application submitted for review.

R68-31-[7]8. Department Review.

- 1) The department's investigation shall:
 - a) verify all required documents and supplemental materials have been submitted with the application;
 - b) confirm the information in the application is correct;
 - c) conduct the criminal background check required in Utah Code Title 4, Chapter 41a, Section 202; and
 - d) confirm that operating and business plans comply with all state laws and administrative rule.
- 2) The department may require additional information from an applicant.
- 3) The department shall submit the cannabis processing facility or independent cannabis testing laboratory application to the Cannabis Production Establishment Licensing Board with information and a recommendation within 30 days of receiving a completed cannabis processing facility or independent cannabis testing laboratory application.
- 4) The department shall submit a cannabis cultivation facility application to the Cannabis Production Establishment Licensing Board when the department finds a need based on market needs and available licenses.

R68-31-[8]9. Public Hearing.

- 1) The Cannabis Production Establishment Licensing Board shall make licensing determination during a public hearing where the application was considered.
- 2) The Cannabis Production Establishment Licensing Board shall allow prospective applicants to make a presentation at the public hearing in which their application is considered.
- 3) The Cannabis Production Establishment Licensing Board shall notify the prospective applicant a minimum of 10 business days in advance of the public hearing where their application is being considered.
- 4) The Cannabis Production Establishment Licensing Board may limit the time available for presentations by the applicants.

KEY: cannabis, cannabis production, licensing, Cannabis Production Establishment Licensing Board

Date of Enactment or Last Substantive Amendment: February 24, 2020

Authorizing, and Implemented or Interpreted Law: 4-2-103; 4-41a-201(2)(iii)

!-dar-