



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community, and Economic Development

Alcohol and Marijuana Control Office

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Anchorage, AK 99501
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MEMORANDUM

TO: Marijuana Control Board DATE: January 12, 2022

FROM: Glen Klinkhart, Director RE: Regulations Project –
Jane P. Sawyer, Regulations Specialist Enforcement Action Process

The board opened this project at the February 17, 2021, meeting to incorporate into regulation enforcement actions. At the October 2021 meeting, the board sent the draft out for public comment for 60 days, the draft was out for about 65. One comment was received.

Several sections of Article 8 of 3 AAC 306 are proposed to be amended. Attached is the draft for board discussion.

Potential board actions: TBD at meeting. The board wanted more time to look at the draft at the same time it being out for public comment. If the board would like to receive oral testimony/comments, that is an option at a future meeting provided I publish oral testimony on the newspaper.

January 11, 2021

Via email to: amco.regs@alaska.gov



Subject: The Marijuana Control Board proposes to change regulations in Title 3, Chapter 306 of the Alaska Administrative Code dealing with the enforcement action process for commercial marijuana laws

Dear Honorable Marijuana Control Board Members,

The Marijuana Control Board proposes to adopt regulation changes in 3 AAC 306 concerning the due process for enforcement action of commercial marijuana laws.

The Alaska Marijuana Industry Association would like to see this **tabled** until the Anchorage meeting in April. While we support changes regarding verbal warnings, inspection reports, advisory notices, and notices of violation including the language clean-up. The powers and duties applicable in these changes are very broad. The process that the board and enforcement would consider being “due process” is not clear. To better understand the board and enforcement agencies making these regulation changes, we are seeking guidance from the Marijuana Control Board and enforcement. If AAG Joan Wilson is available, we wish to seek her input as well, giving us clear information on what they believe the process of due process for enforcement action definitively is.

We appreciate the time of the Director, Board, and the AMCO staff for working so hard on these changes.

Thank you for your time.

Respectfully,

Alaska Marijuana Industry Association
Board of Directors & Governance Committee

The Alaska Marijuana Industry Association is Alaska's only statewide cannabis industry trade group. Our mission is to promote and advocate for a vibrant and reasonably regulated Alaska-based marijuana industry. The AMIA serves to strengthen and enhance a network of connected, independent, informed, regionally and community-directed Alaska marijuana organizations.

www.alaskamia.org

(Words in boldface and underlined indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted.)

3 AAC 306.800 is repealed:

3 AAC 306.800. Inspection and investigation. Repealed. (Eff. 2/21/2016, Register 217; am 12/6/2020, Register 236; am 12/10/2020, Register 236; repealed ___/___/____, Register _____)

3 AAC 306 is amended by adding a **new section** to read:

3 AAC 306.801. Powers and duties. (a) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity, may

(1) inspect the licensed premises of a marijuana establishment, including overlapping premises approved by the board under 3 AAC 306.705(d) and 3 AAC 306.710(d), any marijuana and marijuana product on the premises, equipment used in cultivating, processing, testing, or storing marijuana, the marijuana establishment's marijuana inventory tracking system, business records, and computers, at any reasonable time and in a reasonable manner;

(2) issue verbal a warning, an inspection report, an advisory notice, or a notice of violation;

(3) seize or place an administrative hold on marijuana or any marijuana product as provided in 3 AAC 306.830;

(4) execute a search warrant;

(5) as authorized under AS 17.38.131, exercise peace officer powers and take any other action the director determines is necessary;

(6) file an accusation for suspension, revocation, or other disciplinary actions on a license, permit, or endorsement; and

(7) take such other action as is considered necessary by the director to assure the enforcement of AS 17.38 and this chapter.

(b) A marijuana establishment, and any licensee, employee, or agent in charge shall cooperate with the director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity to enforce the laws related to marijuana, including

(1) permitting entry upon and inspection of the licensed premises; and

(2) providing access to business records at reasonable times when request by the director, an enforcement agent, an employee of the board, or a peace officer. (Eff.

___/___/____, Register _____)

Authority: AS 17.38.010 AS 17.38.131 AS 17.38.200

AS 17.38.070 AS 17.38.150 AS 17.38.900

AS 17.38.121 AS 17.38.190

3 AAC 306.805 is repealed:

3 AAC 306.805. Report or notice of violation. Repealed. (Eff. 2/21/2016, Register 217; repealed ___/___/____, Register _____)

3 AAC 306 is amended by adding a **new section** to read:

3 AAC 306.806. Verbal warning, inspection report, advisory notice, or notice of violation. (a) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity, may issue a verbal warning, an inspection report, an advisory report, or a notice of violation upon a license, permit, or endorsement.

(b) A verbal warning is intended to address a situation where a violation of a statute, regulation, or local law on the licensed premises is quickly correctable and does not pose an immediate risk to the public safety or health. Issuing a verbal warning is discretionary. A verbal warning must be documented in the licensee's enforcement file maintained by the director.

(c) An inspection report documents an enforcement agent's inspection of the licensed premises. An inspection report must be prepared on a form the board prescribes and include information prescribed under AS 17.38 or this chapter or that the board requires.

(d) A written advisory notice documents an incident or defect that violates statute, regulation, or local law and the enforcement agent elects not to provide a verbal warning. The advisory notice may be issued from information recorded on an inspection report or elsewhere. An advisory notice may be grounds for issuance of a notice of violation or accusation if the incident or defect continues uncorrected. Issuing an advisory notice is at the discretion of the enforcement agent. A copy of the advisory notice must be documented in the licensee's enforcement file maintained by the director.

(e) A written notice of violation is intended to address more serious or repetitive violations of AS 17.38, this chapter, or other local law that has occurred or is occurring on the

licensed premises, including overlapping premises. A notice of violation is issued at the discretion of the enforcement agent. It may be issued as a stand-alone document or from circumstances described in an inspection report or earlier advisory notice. A notice of violation will be issued and may be contested as set forth in 3 AAC 306.809 and 3 AAC 306.810. (Eff. ___/___/____, Register _____)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

3 AAC 306 is amended by adding a **new section** to read:

3 AAC 306.809. Notice of violation. (a) A notice of violation must be in writing on a form approved by the board and it must detail

- (1) a description of the circumstances of the violation or violations;
- (2) a description of applicable violated statutes, regulations, or local laws;
- (3) prior violations or criminal history of the licensee and licensed premises;
- (4) recommendations of disciplinary actions, including fines and probation; and
- (5) the signature of the investigating officer.

(b) The notice of violation must be delivered to the licensee at the licensee’s licensed premises, and, if applicable, to an appropriate law enforcement agency, and it must be filed with

the board. The notice of violation must be documented in the licensee's enforcement file maintained by the director.

(c) A licensee may contest a notice of violation or the recommended disciplinary action by filing a written response to the director no later than 10 days after licensee's receipt of the notice. The licensee may either contest the notice of violation as an appeal of the director's decision as described under 3 AAC 306.845 or request an informal conference with the director under 3 AAC 306.844.

(d) If an informal conference with the director is requested, the director shall schedule the conference within 10 days after receipt of the request. The director may uphold the recommended disciplinary action, reduce the disciplinary action, or dismiss the notice of violation. Dismissal of a notice of violation must be documented in the licensee's enforcement file maintained by the director.

(e) If the licensee elects to have the notice of violation addressed by the board, either after meeting with the director or deciding to bring the notice of violation directly to the board, the board will consider the notice of violation as an appeal of a director's decision at its next regularly scheduled meeting, at which the director will present information and witnesses sufficient to prove to the satisfaction of the board that the violation occurred and the recommended fine or other disciplinary action is consistent with board precedent. The licensee may present information and witnesses to rebut the director's presentation.

(f) Following the presentation described in (e) of this section, the board shall determine whether there is substantial evidence to uphold the notice of violation and, if so, determine the

appropriate fine or other disciplinary action based on board precedent. In addition to vacating the notice of violation and decreasing the recommended disciplinary action, the board may also order additional disciplinary action, including request the director to prepare an accusation for suspension or revocation of a license.

(g) Excluding requesting the director to prepare an accusation for suspension or revocation of a license, a decision by the board relating to the notice of violation or civil fine or other disciplinary action may be appealed to the superior court under AS 44.63.560.

(h) A notice of violation may be the basis of a proceeding to suspend or revoke a marijuana establishment’s license as provided under 3 AAC 306.810. (Eff. ___/___/____, Register _____)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

3 AAC 306.810 is amended to read:

3 AAC 306.810. Suspension or revocation of license. (a) The board will suspend or revoke a marijuana establishment license issued under this chapter if any licensee is convicted of a felony or of a crime listed in 3 AAC 306.010(d)(2) or (3), or if the board becomes aware that a licensee did not disclose a previous felony conviction or a conviction of a crime listed in 3 AAC 306.010(d)(2) or (3).

(b) The board may suspend or revoke a license issued under this chapter, refuse to renew a license, **order probation as described under 3 AAC 306.836**, or impose a civil fine **as described under 3 AAC 306.840**, if the board finds that a licensee for a marijuana establishment

(1) misrepresented a material fact on an application for a marijuana establishment license, or an affidavit, report, or signed statement under AS 17.38 or this chapter; or

(2) is following any practice or procedure that is contrary to the best interests of the public, including

(A) using any process not approved by the board for extracting or manufacturing marijuana concentrate or products; or

(B) selling or distributing any marijuana concentrate or product that has not been approved by the board;

(3) failed, within a reasonable time [AFTER RECEIVING A NOTICE OF VIOLATION FROM THE DIRECTOR], to correct any defect that is subject of **an advisory notice or notice of violation of** [THE NOTICE OF VIOLATION OF]

(A) AS 17.38 or this chapter;

(B) a condition or restriction imposed by the board; or

(C) other applicable law;

[(4) KNOWINGLY ALLOWED AN EMPLOYEE OR AGENT TO VIOLATE AS 17.38, THIS CHAPTER, OR A CONDITION OR RESTRICTION IMPOSED BY THE BOARD];

(4) violated a condition or restriction the board has imposed;

(5) knowingly allowed an employee or agent to violate AS 17.38, this chapter, or a condition or restriction imposed by the board;

(6)[(5)] failed to comply with any applicable public health, fire, safety, or tax statute, ordinance, regulation, or other law in the state; or

(7)[(6)] used the licensed premises for an illegal purpose including gambling, possession or use of narcotics other than marijuana, prostitution, or sex trafficking.

(c) A local government may notify the director if it obtains evidence that a marijuana establishment has violated a provision of AS 17.38, this chapter, or a condition or restriction the board has imposed on the marijuana establishment. Unless the board finds that the local government’s notice is arbitrary, capricious, and unreasonable, the director shall prepare the notice and supporting evidence as an accusation against the marijuana establishment under AS 44.62.360, and conduct proceedings to resolve the matter as described under 3 AAC 306.820.

(Eff. 2/21/2016, Register 217; am ___/___/_____, Register _____)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900

AS 17.38.121

AS 17.38.190

3 AAC 306 is amended by adding a **new section** to read:

3 AAC 306.811. Suspension or revocation of license based on act of employee. If, in a proceeding to suspend, revoke, or otherwise discipline a marijuana establishment license under 3 AAC 306.809, 3 AAC 306.810 and 3 AAC 306.836, evidence shows that an employee or agent of a licensed marijuana establishment was responsible for an act that would justify suspension, revocation, or other discipline of the marijuana establishment’s license if committed by a licensee, the board may find that the licensee knowingly allowed the act if

(1) the licensee

(A) was physically present when the violation occurred;

(B) knew or should have known the violation was occurring; and

(C) did not take action to stop the violation;

(2) the licensee failed to adequately supervise the employee or agent;

(3) the licensee failed to adequately train the employee or agent in the requirements of AS 17.38 and this chapter relating to marijuana; or

(4) the licensee was reckless or careless in hiring the employee or agent. (Eff.

___/___/____, Register _____)

Authority: AS 17.38.010 AS 17.38.131 AS 17.38.200

AS 17.38.070

AS 17.38.150

AS 17.38.900

AS 17.38.121

AS 17.38.190

3 AAC 306.812 is repealed and readopted to read:

3 AAC 306.812. Suspension or revocation of marijuana handler permit. (a) The board may suspend or revoke a permit issued under 3 AAC 306.700, impose probation under 3 AAC 306.836, or impose a civil fine under 3 AAC 306.840 if the board finds that a marijuana handler permit holder acted in violation of a statute, regulation, or local law.

(b) The director may issue a director's decision to discipline a permittee under 3 AAC 306.700 by submitting a written statement of reasons for the requested action to the permit holder. A permittee may appeal the director's decision by submitting a written statement of reason for the requested action to the director.

(c) The director will provide electronic notice to the permit holder at the electronic mail address provided by the permit holder in the holder's permit application that a hearing conducted in compliance with 3 AAC 306.845 will take place at the board's next regularly scheduled meeting.

(d) The director shall maintain a list of persons with a suspended, revoked, expired, or otherwise disciplined permit holders. The list must be made available to licensees and the public.

(e) Notwithstanding the requirements of (a) – (d) of this section, the director may suspend a permit issued under 3 AAC 306.700 if the permit holder's check is returned for any reason by the withdrawing financial institution until the permit fee and any associated fees are

paid. (Eff. 5/23/2018, Register 226; am 03/25/2020, Register 233; am ___/___/_____, Register _____)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

3 AAC 306.815 is repealed:

3 AAC 306.815. Suspension or revocation based on act of employee. Repealed. (Eff. 2/21/2016, Register 217; repealed ___/___/_____, Register _____)

3 AAC 306 is amended by adding a new section to read:

3 AAC 306.816. Accusations. (a) A proceeding to suspend, revoke, or otherwise discipline a licensee, excluding proceedings under 3 AAC 306.809 and 3 AAC 306.836, must be initiated by service of an accusation on the marijuana establishment in compliance with AS 44.62.360 and 44.62.380.

(b) The accusation must be served at the address of the licensed premises, or at the address of the licensee who is responsible for management and compliance with laws as listed in the marijuana establishment license application in compliance with 3 AAC 306.020(b)(5).

(c) The licensee is entitled to a hearing as provided under AS 44.62.390. If a notice of defense is filed, a hearing shall be held in compliance with AS 44.62.330 – 44.62.630 before the

Office of Administrative Hearings created under AS 44.64.010. Failure to file a notice of defense under AS 44.62.390 constitutes a waiver of the right to further appeal.

(d) A person aggrieved by a final decision of the board following a hearing conducted in compliance with AS 44.62.330 – 44.62.630 may appeal to the superior court under AS 44.62.560. (Eff. ___/___/_____, Register _____)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

3 AAC 306.820 is repealed:

3 AAC 306.820. Procedure for action on license suspension or revocation. Repealed.

(Eff. 2/21/2016, Register 217; repealed ___/___/_____, Register _____)

[A PROCEEDING TO SUSPEND OR REVOKE A LICENSE MUST BE INITIATED BY SERVICE OF AN ACCUSATION ON THE MARIJUANA ESTABLISHMENT IN COMPLIANCE WITH AS 44.62.360 AND 44.62.380, AND CONDUCTED IN COMPLIANCE WITH AS 44.62.330 – 44.62.630. THE ACCUSATION MUST BE SERVED AT THE ADDRESS OF THE LICENSED PREMISES, OR AT THE ADDRESS OF THE LICENSEE WHO IS RESPONSIBLE FOR MANAGEMENT AND COMPLIANCE WITH LAWS AS LISTED IN THE MARIJUANA ESTABLISHMENT LICENSE APPLICATION IN COMPLIANCE WITH 3 AAC 306.020(B)(5). THE MARIJUANA ESTABLISHMENT IS ENTITLED TO A HEARING AS PROVIDED UNDER AS 44.62.390.]

3 AAC 306.830 is repealed and readopted to read:

3 AAC 306.830. Seizure of or administrative hold on marijuana or marijuana

products. (a) The director, an enforcement agent, an employee of the board, or a peace officer

acting in an official capacity may seize or place an administrative hold on marijuana or any marijuana product from a licensed or previously licensed marijuana establishment

(1) if the marijuana establishment has any marijuana or marijuana product not properly logged into the marijuana establishment's marijuana inventory tracking system;

(2) if the marijuana establishment has any adulterated marijuana food or drink product prohibited under 3 AAC 306.510(a)(4);

(3) if the marijuana establishment has any marijuana or marijuana product that is not properly packaged and labeled as provided in

(A) 3 AAC 306.470 and 3 AAC 306.475; or

(B) 3 AAC 306.565 and 3 AAC 306.570;

(4) if the marijuana establishment has not renewed its license as required under 3 AAC 306.035 or if the board has denied renewal of a license under 3 AAC 306.080(b);

(5) upon the development of reasonable grounds to believe that any marijuana or marijuana product

(A) constitutes evidence of a violation of a state statute or regulation; or

(B) poses an immediate threat to worker or public health, safety, or welfare; or

(6) if the marijuana establishment has engaged or attempted to engage in

(A) the diversion of marijuana or a marijuana product; or

(B) a crime on the establishment's licensed premises; in this subparagraph, "crime" has the meaning given in AS 11.81.900(b).

(b) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity may choose, for a reason set out in (a) of this section, whether to place an administrative hold on marijuana or a marijuana product or seize the marijuana or marijuana product. The director may change an administrative hold to a seizure. The director shall update the marijuana inventory control tracking system to reflect the administrative hold or seizure or a change from an administrative hold to a seizure.

(c) If marijuana or a marijuana product is placed on an administrative hold, the marijuana establishment shall

(1) physically separate the marijuana or marijuana product from the public and store it in a secured and restricted-access area of the establishment's licensed premises; and

(2) receive the express written consent of the director to sell, move, transfer, or engage in any other commercial activity relating to the marijuana or marijuana product,

(A) after the conclusion of the investigation of the reason for the administrative hold, the payment of any civil fine, the lifting of any suspension, and the conclusion of any informal conference, any formal hearing, and any hearing under AS 44.62.330 - 44.62.630 (Administrative Procedure Act) and, if applicable, 2 AAC 64.100 - 2 AAC 64.990;

(B) if seizure of the marijuana or marijuana product has not been ordered under (d) of this section; and

(C) if destruction of the marijuana or marijuana product has not been ordered under (j) of this section.

(d) If the director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity seizes marijuana or a marijuana product under this section, the director shall ensure that the items physically removed from the establishment's licensed premises are stored in a reasonable manner.

(e) The director shall immediately give the marijuana establishment at which the marijuana or marijuana product was placed on administrative hold or from which the item was seized notice of whether the action is an administrative hold or seizure and the reasons for the administrative hold or seizure. In the notice, the director shall state that the marijuana establishment may request, not later than 15 days after receiving the notice,

(1) an informal conference, before either the director or the board, if the establishment is aggrieved by an administrative hold; the director shall also state in the notice that selection of an informal conference does not affect the establishment's right to request a formal hearing from the administrative hold; or

(2) a formal hearing before the board from an administrative hold or seizure; in the notice, the director shall schedule a date and time for a formal hearing that is not later than 15 days after the establishment receives the notice, unless the establishment requests a delay.

(f) If the marijuana establishment aggrieved by an administrative hold elects an informal conference

(1) with the director, the informal conference must be held at a time and place convenient to the establishment and the director, but not later than 15 days after the establishment receives notice of the administrative hold, unless the establishment elects a later time for the conference; an informal conference with the director may be conducted telephonically; or

(2) with the board, the informal conference must be held at a time and place convenient to the establishment and the board, but not later than the next scheduled meeting of the board; an informal conference with the board may be conducted telephonically.

(g) If the informal conference does not resolve the matter of an administrative hold to the satisfaction of the marijuana establishment, the establishment, not later than 15 days after the last day of the informal conference, may request a formal hearing. The hearing will be held not later than 15 days after the director's receipt of the request for a formal hearing.

(h) If the request for formal hearing is from an informal conference regarding an administrative hold, the director shall send the marijuana establishment a notice with the date and time of the formal hearing, scheduled as described in (g) of this section, unless the establishment has requested a delay. If the request for formal hearing is from an administrative hold or seizure, and the establishment did not request an informal conference, the formal hearing will be held on the date and time scheduled in the notice sent under (e)(2) of this section, unless the establishment has requested a delay. If the administrative hold or seizure occurs in

connection with a summary suspension under 3 AAC 306.825, the hearing will be combined with a hearing on the summary suspension.

(i) If an administrative hold is on marijuana plants in a licensed standard or limited marijuana cultivation facility, the order setting the administrative hold must

(1) direct the facility to continue care of the plants until the conclusion of any informal conference, any formal hearing, and any hearing under AS 44.62.330 - 44.62.630 (Administrative Procedure Act) and, if applicable, 2 AAC 64.100 - 2 AAC 64.990; and

(2) prohibit any transfer, sale, or commercial activity related to the plants, until the conclusion of any informal conference, any formal hearing, and any hearing under AS 44.62.330 - 44.62.630 (Administrative Procedure Act) and, if applicable, 2 AAC 64.100 - 2 AAC 64.990.

(j) If after a formal hearing the administrative hold or seizure is upheld as justified, the marijuana establishment at or from which the marijuana or marijuana product was placed on administrative hold or seized may request a hearing under AS 44.62.330 - 44.62.630 and, if applicable, 2 AAC 64.100 - 2 AAC 64.990.

(k) If the marijuana establishment from which the marijuana or marijuana product was placed on administrative hold or seized does not contest the seizure or hold, or if after any informal conference and any final hearing the administrative hold on or seizure of the marijuana or marijuana product is upheld as justified, the board may order the destruction of the marijuana or marijuana product, in addition to or in place of any fines or civil remedies. The marijuana or

marijuana product must be destroyed by burning, crushing, or mixing with other material to make the marijuana or marijuana product unusable as provided in 3 AAC 306.740.

(l) The board will not consider marijuana or marijuana product placed on administrative hold or seized to be part of a marijuana establishment's physical inventory until the administrative hold is lifted or the marijuana or marijuana product is removed from seizure. The director shall notify, for information purposes, local governments and taxing authorities with jurisdiction over a marijuana establishment subject to the administrative hold and seizure not later than 30 days after the administrative hold or seizure is put in place or lifted. (Eff. 2/21/2016, Register 217; am 12/6/2020, Register 236; am ___/___/____, Register _____)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

3 AAC 306.835 is repealed:

3 AAC 306.835. Hearing. Repealed. (Eff. 2/21/2016, Register 217; repealed ___/___/____, Register _____)

306.835 language [(A) EXCEPT AS PROVIDED IN 3 AAC 306.825 OR 3 AAC 306.830, A PERSON AGGRIEVED BY AN ACTION OF THE DIRECTOR, AN ENFORCEMENT AGENT, OR AN EMPLOYEE OF THE BOARD MAY REQUEST A HEARING IN COMPLIANCE WITH AS 44.62.390 BY FILING A NOTICE OF DEFENSE NOT LATER THAN 15 DAYS AFTER RECEIVING A WRITTEN ACCUSATION. FAILURE TO FILE A NOTICE OF DEFENSE AS PROVIDED IN THIS SECTION CONSTITUTES A WAIVER OF THE RIGHT TO A HEARING.

(B) WHEN AN AGGRIEVED PERSON REQUESTS A HEARING UNDER THIS SECTION, THE BOARD MAY REQUEST THE OFFICE OF ADMINISTRATIVE HEARINGS TO CONDUCT THE HEARING IN COMPLIANCE WITH DUE PROCESS, AS 44.62.330 - 44.62.630 (ADMINISTRATIVE PROCEDURE ACT), AND 2 AAC 64.100 - 2 AAC 64.990, AS APPLICABLE.]

3 AAC 306 is amended by adding a new section to read:

3 AAC 306.836. Probation. (a) In any of its disciplinary decisions on notices of violation or suspension orders, the board may elect to place a license, permit, or endorsement on probation for a period of no greater than three years. To ensure good faith performance of all obligations of a party while under probation, the board may suspend any portion of time of suspension or civil fines owed.

(b) It is a director's decision to file a probation violation. To initiate such an action for probation violation, the director shall detail in a written communication

- (1) a description of the circumstances of that support that request;
- (2) a description of applicable violated statutes, regulations, or local laws;
- (3) prior violations or criminal history of the licensee and/or licensed premises;
- (4) a recommendation on the amount of unsuspended time or fines to levy; and
- (5) the signature of the investigating officer.

(d) The written communication described in (c) of this section must be documented in the licensee's enforcement file maintained by the director. A copy of the communication must be

delivered to the licensee, and, if applicable, to the appropriate law enforcement agency, and it must be filed with the board.

(e) An aggrieved party may contest a probation violation or the recommended disciplinary action issued under (a) of this section as an appealed director's decision by filing a written response to the director no later than 10 days after licensee's receipt of the notice. If the licensee does not contest the violation and sanction, the violation and sanction must be imposed.

(f) If the aggrieved party elects to contest the probation violation, the board will consider the violation at its next regularly scheduled meeting at which the director will present information and witnesses sufficient to prove to the satisfaction of the board that the violation occurred and the recommended unsuspended time or fine is consistent with board precedent. The licensee may present information and witnesses to rebut the director's presentation.

(g) Following the presentation described in (f) of this section, the board shall determine whether there is substantial evidence to uphold the probation violation, and if so, determine whether the penalty imposed by the director is appropriate. In addition to vacating the probation violation and decreasing the recommended disciplinary action, the board may also order additional disciplinary action, including requesting the director to prepare an accusation for suspension or revocation of a license.

(h) Excluding requesting the director to prepare an accusation for suspension or revocation of a license, a decision by the board relating to the notice of violation or civil fine or other disciplinary action may be appealed to the superior court under AS 44.63.560.

(i) Nothing in this section limits the authority of the board to suspend or revoke a license for violation of AS 17.30 or this chapter. (Eff. ___/___/_____, Register _____)

Authority: AS 17.38.010 AS 17.38.131 AS 17.38.200
AS 17.38.070 AS 17.38.150 AS 17.38.900
AS 17.38.121 AS 17.38.190

3 AAC 306.840 is amended to read:

3 AAC 306.840. Civil Fines. (a) The board may, in addition to any other penalties imposed under this chapter, impose a civil fine in accordance with the Marijuana Control Board fine schedule dated March 23, 2021, and adopted by reference, on a marijuana establishment, licensee, or person that the board determines has violated a provision of AS 17.38 or this chapter.

(b) In a proceeding under 3 AAC 306.810 - 3 AAC 306.830, the board may impose a civil fine, not to exceed the greater of

(1) the fine set out on the fine schedule adopted as reference under (a) of this section;

(2)[(1)] an amount that is three times the monetary gain realized by the marijuana establishment, licensee, or person as a result of the violation, as determined by the board;

(3) if applicable because of the seriousness of the conduct and the related facts;

(A)[(2)] \$10,000 for the first violation;

(B)[(3)] \$30,000 for the second violation; or

(C)[(4)] \$50,000 for the third or subsequent violation. (Eff. 2/21/2016,

Register 217; am ___/___/_____, Register _____; am ___/___/_____, Register _____)

Authority: AS 17.38.010 AS 17.38.131 AS 17.38.200
AS 17.38.070 AS 17.38.150 AS 17.38.900
AS 17.38.121 AS 17.38.190

3 AAC 306 is amended by adding a **new section** to read:

3 AAC 306.844. Informal Conference. An aggrieved licensee or permittee subject to any action under 3 AAC 306.800 – 3 AAC 306.840 may request an informal conference with the director. The director will set the informal conference within ten days of the request. Eff. ___/___/_____, Register _____)

Authority: AS 17.38.010 AS 17.38.131 AS 17.38.200
AS 17.38.070 AS 17.38.150 AS 17.38.900
AS 17.38.121 AS 17.38.190

3 AAC 306.845 is amended to read:

3 AAC 306.845. Appeal. (a) An aggrieved party may appeal to the board regarding any **other** action of the director, an enforcement agent, or an employee of the board charged with enforcing AS 17.38 or this chapter[, INCLUDING SUSPENDING OR REVOKING A LICENSE, SEIZING MARIJUANA OR A MARIJUANA PRODUCT, OR IMPOSING A

CIVIL FINE.]. The appeal must be considered at the next regularly scheduled meeting of the board.

[(b) A PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD SUSPENDING OR REVOKING A LICENSE UNDER THIS CHAPTER, IMPOSING A CIVIL FINE UNDER THIS CHAPTER, OR UPHOLDING AS JUSTIFIED AN ADMINISTRATIVE HOLD ON OR THE SEIZURE OF MARIJUANA OR MARIJUANA PRODUCT MAY APPEAL TO THE SUPERIOR COURT UNDER AS 44.62.560.] (Eff. 2/21/2016, Register 217; am 12/6/2020, Register 236; am ___/___/____, Register _____)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900
	AS 17.38.121	AS 17.38.190	

Repealed language. 3 AAC 306.800. Inspection and investigation

(a) THE DIRECTOR, AN ENFORCEMENT AGENT, AN EMPLOYEE OF THE BOARD, OR A PEACE OFFICER ACTING IN AN OFFICIAL CAPACITY, MAY

(1) INSPECT THE LICENSED PREMISES OF A MARIJUANA ESTABLISHMENT, INCLUDING OVERLAPPING PREMISES APPROVED BY THE BOARD UNDER 3 AAC 306.705(D) AND 3 AAC 306.710(D), ANY MARIJUANA AND MARIJUANA PRODUCT ON THE PREMISES, EQUIPMENT USED IN CULTIVATING, PROCESSING, TESTING, OR STORING MARIJUANA, THE MARIJUANA ESTABLISHMENT'S MARIJUANA INVENTORY TRACKING SYSTEM, BUSINESS RECORDS, AND COMPUTERS, AT ANY REASONABLE TIME AND IN A REASONABLE MANNER;

(2) ISSUE A REPORT OR NOTICE AS PROVIDED IN 3 AAC 306.805;

(3) SEIZE OR PLACE AN ADMINISTRATIVE HOLD ON MARIJUANA OR ANY MARIJUANA PRODUCT AS PROVIDED IN 3 AAC 306.830; AND

(4) AS AUTHORIZED UNDER AS 17.38.131, EXERCISE PEACE OFFICER POWERS AND TAKE ANY OTHER ACTION THE DIRECTOR DETERMINES IS NECESSARY.

(b) A MARIJUANA ESTABLISHMENT, AND ANY LICENSEE, EMPLOYEE, OR AGENT IN CHARGE SHALL COOPERATE WITH THE DIRECTOR, AN ENFORCEMENT AGENT, AN EMPLOYEE OF THE BOARD, OR A PEACE OFFICER ACTING IN AN OFFICIAL CAPACITY, TO ENFORCE THE LAWS RELATED TO MARIJUANA, INCLUDING

(1) PERMITTING ENTRY UPON AND INSPECTION OF THE LICENSED PREMISES; AND

(2) PROVIDING ACCESS TO BUSINESS RECORDS AT REASONABLE TIMES WHEN REQUESTED BY THE DIRECTOR, AN ENFORCEMENT AGENT, AN EMPLOYEE OF THE BOARD, OR A PEACE OFFICER. (EFF. 2/21/2016, REGISTER 217; AM 12/6/2020, REGISTER 236; AM 12/10/2020, REGISTER 236)

Repealed language 3 AAC 306.805. Report or notice of violation

(a) THE DIRECTOR, AN ENFORCEMENT AGENT, AN EMPLOYEE OF THE BOARD, OR A PEACE OFFICER ACTING IN AN OFFICIAL CAPACITY, MAY ISSUE AN INSPECTION REPORT, AN ADVISORY REPORT, OR A NOTICE OF VIOLATION BEFORE TAKING ACTION TO SUSPEND OR REVOKE A MARIJUANA ESTABLISHMENT LICENSE.

(b) AN INSPECTION REPORT DOCUMENTS AN INVESTIGATOR'S INSPECTION OF LICENSED PREMISES. AN INSPECTION REPORT MUST BE PREPARED ON A FORM THE BOARD PRESCRIBES AND INCLUDE INFORMATION PRESCRIBED UNDER AS 17.38 OR THIS CHAPTER OR THAT THE BOARD REQUIRES.

(c) THE DIRECTOR, AN ENFORCEMENT AGENT, AN EMPLOYEE OF THE BOARD, OR A PEACE OFFICER ACTING IN AN OFFICIAL CAPACITY MAY ISSUE AN ADVISORY NOTICE WHEN AN INCIDENT OCCURS OR A DEFECT IS NOTED THAT COULD RESULT IN A VIOLATION OF A STATUTE, REGULATION, OR MUNICIPAL ORDINANCE. AN ADVISORY NOTICE MAY RESULT FROM AN INSPECTION REPORT, BUT IS NOT A BASIS FOR ADMINISTRATIVE ACTION UNLESS THE INCIDENT OR DEFECT CONTINUES OR IS NOT CORRECTED.

(d) THE DIRECTOR, AN ENFORCEMENT AGENT, AN EMPLOYEE OF THE BOARD, OR A PEACE OFFICER ACTING IN AN OFFICIAL CAPACITY MAY ISSUE A NOTICE OF VIOLATION IF AN INSPECTION REPORT OR OTHER CREDIBLE INFORMATION SHOWS A MARIJUANA ESTABLISHMENT IS IN VIOLATION OF AS 17.38, THIS CHAPTER, OR OTHER LAW RELATING TO MARIJUANA. THE NOTICE OF VIOLATION MUST BE DELIVERED TO THE MARIJUANA ESTABLISHMENT AT ITS LICENSED PREMISES, AND TO THE BOARD. THE NOTICE MUST DESCRIBE ANY VIOLATION, AND CITE THE APPLICABLE STATUTE, REGULATION, OR ORDER OF THE BOARD. A MARIJUANA ESTABLISHMENT THAT RECEIVES A NOTICE OF VIOLATION MAY RESPOND TO THE NOTICE ORALLY OR IN WRITING, AND MAY, NOT LATER THAN 10 DAYS AFTER RECEIVING THE NOTICE, REQUEST AN OPPORTUNITY TO APPEAR BEFORE THE BOARD. A NOTICE OF VIOLATION MAY BE THE BASIS OF A PROCEEDING TO SUSPEND OR REVOKE A MARIJUANA ESTABLISHMENT'S LICENSE AS PROVIDED UNDER 3 AAC 306.810. (EFF. 2/21/2016, REGISTER 217)

Repealed language. 3 AAC 306.812. Suspension or revocation of marijuana handler permit

(a) THE BOARD MAY SUSPEND OR REVOKE A PERMIT ISSUED UNDER 3 AAC 306.700, OR IMPOSE A CIVIL FINE IF THE BOARD FINDS THAT A MARIJUANA HANDLER PERMIT HOLDER ACTED IN VIOLATION OF A STATUTE, REGULATION, OR MUNICIPAL ORDINANCE.

(b) THE DIRECTOR MAY REQUEST THE BOARD TO SUSPEND OR REVOKE A PERMIT ISSUED UNDER 3 AAC 306.700 BY SUBMITTING A WRITTEN STATEMENT OF REASONS FOR THE REQUESTED ACTION TO THE PERMIT HOLDER. A LICENSEE MAY REQUEST THE BOARD TO SUSPEND OR REVOKE A PERMIT ISSUED UNDER 3 AAC 306.700 BY SUBMITTING A WRITTEN STATEMENT OF REASONS FOR THE REQUESTED ACTION TO THE DIRECTOR AND THE PERMIT HOLDER. THE DIRECTOR SHALL BRING THE REQUEST TO THE BOARD AT THE NEXT AVAILABLE MEETING.

(c) THE BOARD WILL PROVIDE ELECTRONIC NOTICE TO THE PERMIT HOLDER AT THE ELECTRONIC MAIL ADDRESS PROVIDED BY THE PERMIT HOLDER IN THE HOLDER'S PERMIT APPLICATION THAT A REQUEST TO TAKE ACTION ON THE PERMIT WILL BE ADDRESSED AT THE BOARD'S NEXT SCHEDULED MEETING.

(d) THE DIRECTOR SHALL MAINTAIN A LIST OF PERSONS WITH A SUSPENDED, REVOKED, OR EXPIRED PERMIT. THE LIST SHALL BE MADE AVAILABLE TO LICENSEES AND THE PUBLIC.

(e) A PERSON MAY APPEAL THE BOARD'S DECISION TO SUSPEND OR REVOKE THE PERSON'S PERMIT IN ACCORDANCE WITH AS 44.62.390 – 44.62.560.

(f) NOTWITHSTANDING THE REQUIREMENTS OF (A) – (E) OF THIS SECTION, THE DIRECTOR MAY SUSPEND A PERMIT ISSUED UNDER 3 AAC 306.700 IF THE PERMIT HOLDER’S CHECK IS RETURNED FOR INSUFFICIENT FUNDS, UNTIL THE PERMIT FEE AND ANY ASSOCIATED BANK FEE IS PAID. (EFF. 5/23/2018, REGISTER 226; AM 03/25/2020, REGISTER 233)

Repealed language **3 AAC 306.830. SEIZURE OF MARIJUANA OR MARIJUANA PRODUCT**

(a) THE DIRECTOR, AN ENFORCEMENT AGENT, AN EMPLOYEE OF THE BOARD, OR A PEACE OFFICER ACTING IN AN OFFICIAL CAPACITY MAY SEIZE OR PLACE AN ADMINISTRATIVE HOLD ON MARIJUANA OR ANY MARIJUANA PRODUCT FROM A LICENSED OR PREVIOUSLY LICENSED MARIJUANA ESTABLISHMENT

(1) IF THE MARIJUANA ESTABLISHMENT HAS ANY MARIJUANA OR MARIJUANA PRODUCT NOT PROPERLY LOGGED INTO THE MARIJUANA ESTABLISHMENT'S MARIJUANA INVENTORY TRACKING SYSTEM;

(2) IF THE MARIJUANA ESTABLISHMENT HAS ANY ADULTERATED MARIJUANA FOOD OR DRINK PRODUCT PROHIBITED UNDER 3 AAC 306.510(A)(4);

(3) IF THE MARIJUANA ESTABLISHMENT HAS ANY MARIJUANA OR MARIJUANA PRODUCT THAT IS NOT PROPERLY PACKAGED AND LABELED AS PROVIDED IN

(A) 3 AAC 306.470 AND 3 AAC 306.475; OR

(B) 3 AAC 306.565 AND 3 AAC 306.570;

(4) IF THE MARIJUANA ESTABLISHMENT HAS NOT RENEWED ITS LICENSE AS REQUIRED UNDER 3 AAC 306.035;

(5) UPON THE DEVELOPMENT OF REASONABLE GROUNDS TO BELIEVE THAT ANY MARIJUANA OR MARIJUANA PRODUCT

(A) CONSTITUTES EVIDENCE OF A VIOLATION OF A STATE STATUTE OR REGULATION; OR

(B) POSES AN IMMEDIATE THREAT TO WORKER OR PUBLIC HEALTH, SAFETY, OR WELFARE; OR

(6) IF THE MARIJUANA ESTABLISHMENT HAS ENGAGED OR ATTEMPTED TO ENGAGE IN

(A) THE DIVERSION OF MARIJUANA OR A MARIJUANA PRODUCT;

OR

(B) A CRIME ON THE ESTABLISHMENT'S LICENSED PREMISES; IN THIS SUBPARAGRAPH, "CRIME" HAS THE MEANING GIVEN IN AS 11.81.900(B).

(b) THE DIRECTOR, AN ENFORCEMENT AGENT, AN EMPLOYEE OF THE BOARD, OR A PEACE OFFICER ACTING IN AN OFFICIAL CAPACITY MAY CHOOSE, FOR A REASON SET OUT IN (A) OF THIS SECTION, WHETHER TO PLACE AN ADMINISTRATIVE HOLD ON MARIJUANA OR A MARIJUANA PRODUCT OR SEIZE THE MARIJUANA OR MARIJUANA PRODUCT. THE DIRECTOR MAY CHANGE AN ADMINISTRATIVE HOLD TO A SEIZURE. THE DIRECTOR SHALL UPDATE THE MARIJUANA INVENTORY CONTROL TRACKING SYSTEM TO REFLECT THE ADMINISTRATIVE HOLD OR SEIZURE OR A CHANGE FROM AN ADMINISTRATIVE HOLD TO A SEIZURE.

(c) IF MARIJUANA OR A MARIJUANA PRODUCT IS PLACED ON AN ADMINISTRATIVE HOLD, THE MARIJUANA ESTABLISHMENT SHALL

(1) PHYSICALLY SEPARATE THE MARIJUANA OR MARIJUANA PRODUCT FROM THE PUBLIC AND STORE IT IN A SECURED AND RESTRICTED-ACCESS AREA OF THE ESTABLISHMENT'S LICENSED PREMISES; AND

(2) RECEIVE THE EXPRESS WRITTEN CONSENT OF THE DIRECTOR TO SELL, MOVE, TRANSFER, OR ENGAGE IN ANY OTHER COMMERCIAL ACTIVITY RELATING TO THE MARIJUANA OR MARIJUANA PRODUCT,

(A) AFTER THE CONCLUSION OF THE INVESTIGATION OF THE REASON FOR THE ADMINISTRATIVE HOLD, THE PAYMENT OF ANY CIVIL FINE, THE LIFTING OF ANY SUSPENSION, AND THE CONCLUSION OF ANY INFORMAL CONFERENCE, ANY FORMAL HEARING, AND ANY HEARING UNDER AS 44.62.330 - 44.62.630 (ADMINISTRATIVE PROCEDURE ACT) AND, IF APPLICABLE, 2 AAC 64.100 - 2 AAC 64.990;

(B) IF SEIZURE OF THE MARIJUANA OR MARIJUANA PRODUCT HAS NOT BEEN ORDERED UNDER (D) OF THIS SECTION; AND

(C) IF DESTRUCTION OF THE MARIJUANA OR MARIJUANA PRODUCT HAS NOT BEEN ORDERED UNDER (J) OF THIS SECTION.

(d) IF THE DIRECTOR, AN ENFORCEMENT AGENT, AN EMPLOYEE OF THE BOARD, OR A PEACE OFFICER ACTING IN AN OFFICIAL CAPACITY SEIZES MARIJUANA OR A MARIJUANA PRODUCT UNDER THIS SECTION, THE DIRECTOR SHALL ENSURE THAT THE ITEMS PHYSICALLY REMOVED FROM THE ESTABLISHMENT'S LICENSED PREMISES ARE STORED IN A REASONABLE MANNER.

(e) THE DIRECTOR SHALL IMMEDIATELY GIVE THE MARIJUANA ESTABLISHMENT AT WHICH THE MARIJUANA OR MARIJUANA PRODUCT WAS PLACED ON ADMINISTRATIVE HOLD OR FROM WHICH THE ITEM WAS SEIZED NOTICE OF WHETHER THE ACTION IS AN ADMINISTRATIVE HOLD OR SEIZURE AND THE REASONS FOR THE ADMINISTRATIVE HOLD OR SEIZURE. IN THE NOTICE, THE DIRECTOR SHALL STATE THAT THE MARIJUANA ESTABLISHMENT MAY REQUEST, NOT LATER THAN 15 DAYS AFTER RECEIVING THE NOTICE,

(1) AN INFORMAL CONFERENCE, BEFORE EITHER THE DIRECTOR OR THE BOARD, IF THE ESTABLISHMENT IS AGGRIEVED BY AN ADMINISTRATIVE HOLD; THE DIRECTOR SHALL ALSO STATE IN THE NOTICE THAT SELECTION OF AN INFORMAL CONFERENCE DOES NOT AFFECT THE ESTABLISHMENT'S RIGHT TO REQUEST A FORMAL HEARING FROM THE ADMINISTRATIVE HOLD; OR

(2) A FORMAL HEARING BEFORE THE BOARD FROM AN ADMINISTRATIVE HOLD OR SEIZURE; IN THE NOTICE, THE DIRECTOR SHALL SCHEDULE A DATE AND TIME FOR A FORMAL HEARING THAT IS NOT LATER THAN 15 DAYS AFTER THE ESTABLISHMENT RECEIVES THE NOTICE, UNLESS THE ESTABLISHMENT REQUESTS A DELAY.

(f) IF THE MARIJUANA ESTABLISHMENT AGGRIEVED BY AN ADMINISTRATIVE HOLD ELECTS AN INFORMAL CONFERENCE

(1) WITH THE DIRECTOR, THE INFORMAL CONFERENCE MUST BE HELD AT A TIME AND PLACE CONVENIENT TO THE ESTABLISHMENT AND THE DIRECTOR, BUT NOT LATER THAN 15 DAYS AFTER THE ESTABLISHMENT RECEIVES NOTICE OF THE ADMINISTRATIVE HOLD, UNLESS THE ESTABLISHMENT ELECTS A LATER TIME

FOR THE CONFERENCE; AN INFORMAL CONFERENCE WITH THE DIRECTOR MAY BE CONDUCTED TELEPHONICALLY; OR

(2) WITH THE BOARD, THE INFORMAL CONFERENCE MUST BE HELD AT A TIME AND PLACE CONVENIENT TO THE ESTABLISHMENT AND THE BOARD, BUT NOT LATER THAN THE NEXT SCHEDULED MEETING OF THE BOARD; AN INFORMAL CONFERENCE WITH THE BOARD MAY BE CONDUCTED TELEPHONICALLY.

(g) IF THE INFORMAL CONFERENCE DOES NOT RESOLVE THE MATTER OF AN ADMINISTRATIVE HOLD TO THE SATISFACTION OF THE MARIJUANA ESTABLISHMENT, THE ESTABLISHMENT, NOT LATER THAN 15 DAYS AFTER THE LAST DAY OF THE INFORMAL CONFERENCE, MAY REQUEST A FORMAL HEARING. THE HEARING WILL BE HELD NOT LATER THAN 15 DAYS AFTER THE DIRECTOR'S RECEIPT OF THE REQUEST FOR A FORMAL HEARING.

(h) IF THE REQUEST FOR FORMAL HEARING IS FROM AN INFORMAL CONFERENCE REGARDING AN ADMINISTRATIVE HOLD, THE DIRECTOR SHALL SEND THE MARIJUANA ESTABLISHMENT A NOTICE WITH THE DATE AND TIME OF THE FORMAL HEARING, SCHEDULED AS DESCRIBED IN (G) OF THIS SECTION, UNLESS THE ESTABLISHMENT HAS REQUESTED A DELAY. IF THE REQUEST FOR FORMAL HEARING IS FROM AN ADMINISTRATIVE HOLD OR SEIZURE, AND THE ESTABLISHMENT DID NOT REQUEST AN INFORMAL CONFERENCE, THE FORMAL HEARING WILL BE HELD ON THE DATE AND TIME SCHEDULED IN THE NOTICE SENT UNDER (E)(2) OF THIS SECTION, UNLESS THE ESTABLISHMENT HAS REQUESTED A DELAY. IF THE ADMINISTRATIVE HOLD OR SEIZURE OCCURS IN CONNECTION WITH A SUMMARY SUSPENSION UNDER 3 AAC 306.825, THE HEARING WILL BE COMBINED WITH A HEARING ON THE SUMMARY SUSPENSION.

(i) IF AN ADMINISTRATIVE HOLD IS ON MARIJUANA PLANTS IN A LICENSED STANDARD OR LIMITED MARIJUANA CULTIVATION FACILITY, THE ORDER SETTING THE ADMINISTRATIVE HOLD MUST

(1) DIRECT THE FACILITY TO CONTINUE CARE OF THE PLANTS UNTIL THE CONCLUSION OF ANY INFORMAL CONFERENCE, ANY FORMAL HEARING, AND ANY HEARING UNDER AS 44.62.330 - 44.62.630 (ADMINISTRATIVE PROCEDURE ACT) AND, IF APPLICABLE, 2 AAC 64.100 - 2 AAC 64.990; AND

(2) PROHIBIT ANY TRANSFER, SALE, OR COMMERCIAL ACTIVITY RELATED TO THE PLANTS, UNTIL THE CONCLUSION OF ANY INFORMAL CONFERENCE, ANY FORMAL HEARING, AND ANY HEARING UNDER AS 44.62.330 - 44.62.630 (ADMINISTRATIVE PROCEDURE ACT) AND, IF APPLICABLE, 2 AAC 64.100 - 2 AAC 64.990.

(j) IF AFTER A FORMAL HEARING THE ADMINISTRATIVE HOLD OR SEIZURE IS UPHeld AS JUSTIFIED, THE MARIJUANA ESTABLISHMENT AT OR FROM WHICH THE MARIJUANA OR MARIJUANA PRODUCT WAS PLACED ON ADMINISTRATIVE HOLD OR SEIZED MAY REQUEST, AS PROVIDED IN 3 AAC 306.835, A HEARING UNDER AS 44.62.330 - 44.62.630 AND, IF APPLICABLE, 2 AAC 64.100 - 2 AAC 64.990. IF THE MARIJUANA ESTABLISHMENT FROM WHICH THE MARIJUANA OR MARIJUANA PRODUCT WAS PLACED ON ADMINISTRATIVE HOLD OR SEIZED DOES NOT REQUEST OR PARTICIPATE IN AN INFORMAL CONFERENCE, A FORMAL HEARING, OR A HEARING UNDER AS 44.62.330 - 44.62.630 AND, IF APPLICABLE, 2 AAC 64.100 - 2 AAC 64.990, OR IF AFTER ANY INFORMAL CONFERENCE AND ANY FINAL HEARING THE

ADMINISTRATIVE HOLD ON OR SEIZURE OF THE MARIJUANA OR MARIJUANA PRODUCT IS UPHOLD AS JUSTIFIED, THE BOARD MAY ORDER THE DESTRUCTION OF THE MARIJUANA OR MARIJUANA PRODUCT, IN ADDITION TO OR IN PLACE OF ANY FINES OR CIVIL REMEDIES. THE MARIJUANA OR MARIJUANA PRODUCT MUST BE DESTROYED BY BURNING, CRUSHING, OR MIXING WITH OTHER MATERIAL TO MAKE THE MARIJUANA OR MARIJUANA PRODUCT UNUSABLE AS PROVIDED IN 3 AAC 306.740.

(k) THE BOARD WILL NOT CONSIDER MARIJUANA OR A MARIJUANA PRODUCT PLACED ON ADMINISTRATIVE HOLD OR SEIZED TO BE PART OF A MARIJUANA ESTABLISHMENT'S PHYSICAL INVENTORY UNTIL THE ADMINISTRATIVE HOLD IS LIFTED OR THE MARIJUANA OR MARIJUANA PRODUCT IS REMOVED FROM SEIZURE. THE DIRECTOR SHALL NOTIFY, FOR THEIR INFORMATION, LOCAL GOVERNMENTS AND TAXING AUTHORITIES WITH JURISDICTION OVER A MARIJUANA ESTABLISHMENT SUBJECT TO THE ADMINISTRATIVE HOLD OR SEIZURE NOT LATER THAN 30 DAYS AFTER THE ADMINISTRATIVE HOLD OR SEIZURE IS PUT IN PLACE OR LIFTED. (EFF. 2/21/2016, REGISTER 217; AM 12/6/2020, REGISTER 236)