



MEMORANDUM

TO: Marijuana Control Board DATE: January 24, 2018

FROM: Erika McConnell, Director RE: Regulations Project – Removal of
Marijuana Control Board Affiliates; Require Corporation Bylaws;
Multiple Businesses on a Lease; Charging
for Multiple Inspections; Local
Government Approval of Odor
Emissions; Trade Shows (JU2017200827)

These proposed regulations changes were posted for public comment on December 7, 2017 and public comments were accepted through 4:30pm on January 11, 2018. Public comments are attached.

Removal of Affiliates

Summary: The regulations define “affiliate” as “a person that directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, a partnership, limited liability company, or corporation subject to this chapter.” License applications are required to include information about “each proposed licensee and each affiliate of each proposed licensee” which indicates that the regulations consider affiliates to be different from licensees. However the regulations also state that "licensee" means each individual named in an application that complies with this section, and includes a sole proprietor, all partners holding interest in a partnership, each member holding ownership interest in an LLC, and each owner of a corporation’s stock.

Staff struggles to understand the purpose of an “affiliate.” If an affiliate controls a partnership, LLC, or corporation subject to this chapter, shouldn’t they actually be a licensee? This regulations project removes the concept of affiliate, which is located only in two places in the regulations (3 AAC 306.020(b)(2) and 3 AAC 306.990(a)(1)) and would not seem to have any practical effect on the licensing process other than eliminating confusion.

The proposal also adds the following to the definition of “licensee”:

- General partners in a partnership, whether or not they hold any interest in the partnership.
- Managers and officers of limited liability companies, whether or not they hold any ownership interest
- Officers and directors of corporations, whether or not they own stock

These individuals will have some control and influence over the operation of a license and should be licensees. This is consistent with the alcohol program requirements.

Recommendation: Approve amendment to

- 3 AAC 306.020(b)(2) (page 1),
- 3 AAC 306.020(b)(2)(B) and (C) and (D) (pages 1-2),
- 3 AAC 306.020(b)(3)(C) to add “and director” (page 2),

and repeal of 3 AAC 306.990(a)(1). (page 4)

Require Corporation Bylaws

Summary: Limited liability companies are required to submit their operating agreement, and staff has at times found information in some operating agreements that indicate the need for additional licensees. The operations of an entity can relate to compliance with statutory and regulatory requirements. This regulations project amends 3 AAC 306.020(b)(3)(C) to require license applicants who are corporations to submit their corporate bylaws.

Recommendation: Approve amendment to 3 AAC 306.020(b)(3)(C) that adds “the corporate bylaws.” (page 2)

Multiple Businesses on a Lease

Summary: The issue of multiple businesses on the lease for one licensed premises has come up in the past, recently with AK Slow Burn Cannabis Outlet (#10898), a standard cultivation facility approved at the July meeting. If a non-marijuana business or entity is listed on the lease as having access to the licensed premises, then this other business/entity has access to marijuana without being a licensee. While at the time of licensing, the other business/entity may be owned by the same person/entity who is being licensed, there is no guarantee that that will always be the case. The licensee may sell the second business/entity to another without notice to or authorization by the board (which would not be required), and then some number of unlicensed persons would have access to the licensed premises.

In order to ensure that licensees are fully accountable for tracking all marijuana from seed to sale, the licensee should have sole possession of their licensed premises. This regulations project changes 3 AAC 306.020(b)(9) to require the applicant to have sole right to possession of the proposed licensed premises, so that no other entity or business may be listed on the lease has having a right to access the premises.

Recommendation: Approve amendment to 3 AAC 306.020(b)(9). (page 3)

Charging for Multiple Inspections

Summary: Enforcement has developed a pre-inspection checklist for licensees to ensure that they are ready for an inspection before requesting one. While that has started to cut down on second and third (and subsequent) inspections, it has not eliminated them. In our large state and with a limited enforcement staff, visiting a facility for a second or third time can be costly and time-consuming. This regulations project adds a repeat inspection fee for those licensees who request an inspection but, due to not having completed all items on the pre-inspection checklist (e.g., not having plants tagged, not having premises set up consistent with board-approved diagram), then need a repeat visit(s) from Enforcement staff. The proposed repeat inspection fee is \$500 with the allowance to be waived by the director for good cause.

Recommendation: Approve amendment to 3 AAC 306.100 to add a new section (h). (page 5)

Local Government Approval of Odor Emissions

Summary: As not all local governments issue “conditional use permits” for marijuana applicants, this regulations project to amend 3 AAC 306.430(d) changes “local government conditional use permit process” to “local government approval” and clarifies that odor must be specifically allowed through the approval; the existence alone of a local government approval does not authorize odor to be detectable outside a cultivation facility.

Recommendation: Approve amendment to 3 AAC 306.430(c)(2). (page 6)

Trade Shows

Summary: New subsection (f) in 3 AAC 306.700 states that handler cards will not be issued to people who

- have been convicted of a felony in the last five years in Alaska or are currently on probably or parole for a felony;
- have been convicted of a class A misdemeanor involving a controlled substance other than a Schedule VI controlled substance in the last two years in Alaska;
- have been convicted of a class A misdemeanor relating to selling, furnishing, or distributing marijuana in the last two years in Alaska; and
- are currently under indictment for any of the above.

New subsection 3 AAC 306.8xx allows the board to suspend or revoke a handler permit, refuse to renew a permit, or impose a civil fine if the board finds that a permit holder has acted in violation of the regulations.

Recommendation: Amend 3 AAC 306.8xx as follows: “The board may suspend or revoke a permit issued under this chapter, refuse to renew a permit, or impose a civil fine if the board finds that a permit holder **has acted** [IS FOUND TO ACT] in violation of this chapter.”

Regulations Project: Removal of Affiliates, etc.

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Adopted changes to 3 AAC 306.700 and new section 3 AAC 306.8xx. (pages 7-8)

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

3 AAC 306.020 is amended to read: _

(a) An applicant for a new marijuana establishment license must file an application as provided in 3 AAC 306.025, on a form the board prescribes, with the information and documents described in this section, along with the application fee and the annual license fee set out in 3 AAC 306.100, and the fingerprint cards and fees required by 3 AAC 306.055(a). The application must be initiated electronically; the completed application and fees may be filed electronically, or mailed or delivered to the director at the office of the board.

(b) An application for a new marijuana establishment license must include

(1) the name of the applicant and any business name the applicant will use for the proposed marijuana establishment, along with the applicant's state business license number issued under AS 43.70;

(2) the name, mailing address, telephone number, and social security number of each proposed licensee [AND EACH AFFILIATE OF EACH PROPOSED LICENSEE]; unless the context requires otherwise, "licensee" means each individual named in an application that complies with this section; an individual to be identified as a licensee under this section includes

(A) if the applicant is an individual or a sole proprietor, the individual or sole proprietor;

(B) if the applicant is a partnership, including a limited partnership, **each general partner and** each partner holding any interest in the partnership;

(C) if the applicant is a limited liability company, each member holding any ownership interest **and each manager**;

(D) if the applicant is a corporation, each owner of any of the corporation's stock, **each officer, and each director**; and

(E) if the applicant is a local government, an authorized official of the local government;

(3) for each applicant that is not an individual, the applicable documents and information as follows:

(A) for a partnership, including a limited partnership, the partnership agreement, the name of each general or managing partner, and a list of all partners with the percentage of ownership of each partner;

(B) for a limited liability company, the limited liability company agreement, and a list of all members with the percentage of ownership of each member;

(C) for a corporation, the certificate of incorporation, **the corporate bylaws**, the name of each corporate officer **and director**, and a list of all shareholders with the percentage of ownership of each shareholder;

(D) for a local government, a resolution of the governing body approving the application and designating an official responsible for the proposed marijuana establishment;

(4) for each person listed in compliance with (2) of this subsection, a statement of financial interest on a form the board prescribes;

(5) for each applicant that is not an individual, the name of the individual licensee or designated government official listed in the application under (2) of this subsection who is responsible for

(A) management of the marijuana establishment; and

(B) compliance with state laws;

(6) an electronic mail address at which the applicant agrees to receive any correspondence from the board before and after it receives a license; an applicant and a licensee must ensure that any electronic mail address provided to the board is current so that the board can contact the applicant or licensee at any time;

(7) the type of license the applicant is requesting;

(8) the address of the premises to include global positioning system (GPS) coordinates where the applicant intends to operate a marijuana establishment, and a detailed diagram of the proposed licensed premises; the diagram must show all entrances and boundaries of the premises, restricted access areas, and storage areas;

(9) the title, lease, or other documentation showing the applicant's sole right to possession of the proposed licensed premises; (Eff. 2/21/2016, Register 217; am __/__/____, Register____)

- Authority:** AS 17.38.010 AS 17.38.150 AS 17.38.200
- AS 17.38.070 AS 17.38.190 AS 17.38.900
- AS 17.38.121

3 AAC 306.990(a)(1) is repealed:

(1) repealed. (Eff. 2/24/2015, Register 213; am 2/21/2016, Register 217; am __/__/____, Register _____).

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

3 AAC 306.100 is amended by adding a new subsection to read:

(h) The processing fee for a second or subsequent inspection for a new marijuana establishment is \$500.

(1) The fee is applicable if the marijuana establishment requests a preliminary inspection, fails, and is not issued a license, and requires a subsequent inspection.

(2) The fee may be waived at the discretion of the director if a written request is submitted. (am ___/___/____, Register_____)

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

3 AAC 306.430(c)(2) is amended to read:

(2) does not emit an odor that is detectable by the public from outside the cultivation facility except as **specifically** allowed by a local government **approval** [CONDITIONAL USE PERMIT PROCESS]; (Eff. 2/21/2016, Register 217; am __/__/____, Register____)

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

3 AAC 306.750 is amended by adding a new subsection to read:

(g) A marijuana establishment may transport marijuana or a marijuana product to and from a trade show or similar industry event in accordance with 3 AAC 306.760 and this section.

Authority: AS 17.38.010 AS 17.38.150 AS 17.38.200

AS 17.38.070 AS 17.38.190 AS 17.38.900

AS 17.38.121

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

3 AAC 306.760 Trade Shows. (a) Licensed marijuana establishments may participate in trade shows and similar industry events in compliance with the following:

(1) Licensed cultivation facilities may bring one plant to the event as a display.

The removal and return of the plant from the licensed premises shall be tracked in the inventory tracking system. Any marijuana removed from the plant at the event (for example, in a trimming demonstration) shall be retained by the licensee and returned to the licensed premises.

(2) Licensed cultivation facilities and licensed retail facilities may bring up to

one ounce of marijuana to the event as a display. The removal and return of the marijuana from the licensed premises shall be tracked in the marijuana inventory tracking system. The marijuana shall be contained in such a way that the marijuana is not accessible to the public.

(3) Licensed product manufacturing facilities and licensed retail facilities may

bring one sample package of each marijuana product made or sold to the event as a display. The removal and return of the marijuana product from the licensed premises shall be tracked in the

marijuana inventory tracking system. The marijuana product shall remain packaged in the approved packaging throughout the duration of the event.

(4) Licensed testing facilities may not perform required tests on samples from licensed facilities at any trade show or similar event.

(5) No marijuana or marijuana product may be sold or distributed by a licensee at the event.

(6) Marijuana and marijuana product displayed at an event by a licensee shall be handled only by a licensee, or employee or agent of a licensee, with a valid marijuana handler permit.

(7) Advertising or promotions displayed or distributed at the event by a licensee shall comply with the requirements of this chapter.

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

From: Ronda Lambert
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Comment on Proposed Regs
Date: Thursday, January 11, 2018 11:56:27 AM

I am writing against this proposed change:

3 AAC 306.020(b)(4) is amended to read: (4) for each person listed in compliance with (2) of this subsection, a statement of financial interest on a form the board prescribes and financial history information required by the board;

It is too vague as to what information would be required for a financial history and, with the other proposed changes to the regulations, to whom this would apply to. It does not set out what specifically the board is wanting, the documentation required, or much of anything. It is basically a free pass to information that is private.

The board needs to clarify what documentation they are specifically seeking and for what time period and the reason for needing this information.

Thank you,
Ronda Lambert



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From: steve@greatnortherncannabis.com
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Public Comment: Proposed Regulatory Changes - Affiliates, Inspection Fees, Odor Control, and Trade Shows
Date: Wednesday, December 27, 2017 8:44:24 AM

January 7, 2018

Marijuana Control Board

Peter Mlynarik, Chair

Mark Springer

Loren Jones

Brandon Emmett

Nicholas Miller

Alcohol & Marijuana Control Office

550 West Seventh Avenue, Suite 1600

Anchorage, Alaska 99501

RE: Proposed 3 AAC 306.020; 3 AAC 306.100; 3 AAC 306.430; 3 AAC 306.750; 3 AAC 306.990 – marijuana establishment affiliates, inspection fees, local government approval of odor control, and industry participation in trade shows

Dear Sirs:

Great Northern Cannabis, Incorporated (GNC) is an Alaska corporation with approximately 45 full- and part-time employees, and 23 Alaskan shareholders from a wide variety of backgrounds. We currently own and operate a cultivation facility and a retail store. We thank you for the opportunity to comment on the proposed regulations for marijuana establishment affiliates, inspection fees, local government approval of odor control, and industry participation in trade shows.

GNC is generally neutral towards the proposed additions to 3 AAC 306.020 and suggests the following changes:

1. While we do not object to adding the names of directors, we do not understand the purpose of asking applicants to include copies of their corporate bylaws in 3 AAC 306.020 (b) (3) (C); we therefore suggest that portion be deleted.
2. Similarly, we do not understand the purpose of adding the term “sole” in subsection 9. We are concerned it could have the unintended consequence of prohibiting a cannabis business from locating, for example, in an office condominium wherein the grounds and exterior building are owned in common while the specific space is owned or leased by the business. Given the other restrictions on locating cannabis businesses, this addition seems unnecessary and we suggest it be deleted.

GNC appreciates that AMCO resources are limited and is therefore generally supportive of the addition of 3 AAC 306.100 (h). However, given the fact that AMCO is a user tax supported

entity and the rather complicated nature of cannabis regulation, we would suggest that the fee for subsequent inspections begin with the third, rather than second, instance.

Recognizing that not all local governments use the Condition Use Permit process, GNC is supportive of the proposed change to 3 AAC 306.430 (c) (2).

GNC supports the addition of 3 AAC 306.760 and appreciates the board's consideration of this change. We would suggest that retail establishments be permitted to display manufactured cannabis products they sell, regardless of whether they are the manufacturer, as long as the removal and return from the licensed premises is tracked.

Thank you again for the opportunity to comment on these proposed changes. We would be happy to answer questions and participate in any rule-drafting discussions.

Best regards,

Steve Brashear
Chairman & CEO
Great Northern Cannabis, Inc.