



## MEMORANDUM

TO: Mark Springer, Chair, and  
Members of the Board

DATE: April 4, 2018

FROM: Erika McConnell, Director  
Marijuana Control Board

RE: Regulations Project – Plant Count for  
New Cultivators

**Summary:** The board’s policy regarding what type of plant/seed inventory a new cultivation facility may start with, after which all marijuana would need to be created from existing stock and tracked in the seed-to-sale inventory tracking system, is proposed to be added to the regulations. Note that the seeds that a new cultivation facility may have at the time of preliminary inspection are to be used for cultivation—not for sale to a retail store. The regulation proposal also sets a method by which cultivation facilities may bring in new genetics from an outside source.

While the definition of “mature” and “immature” in the proposal may not be the scientific meaning of those words as applied to marijuana plants, the intent as used in the regulations is to cover both the height/age of the plant and in the case of immature plants, the lack of flowers.

Questions for the board:

1. Should the director or the board approve the introduction of a new strain?
2. Should there be a limit on how often new strains can be introduced?

**Recommendation:** Amend as desired; put out for public comment.

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

3 AAC 306.405 is amended to read:

**3 AAC 306.405. Standard marijuana cultivation facility: privileges and prohibited acts**

(a) A licensed standard marijuana cultivation facility is authorized to

- (1) propagate, cultivate, harvest, prepare, cure, package, store, and label marijuana;
- (2) sell marijuana only to a licensed retail marijuana store, to another licensed marijuana cultivation facility, or to a licensed marijuana product manufacturing facility;
- (3) provide samples to a licensed marijuana testing facility for testing;
- (4) store inventory on the licensed premises; any stored inventory must be secured in a restricted access area and accounted for in the marijuana cultivation facility's marijuana inventory tracking system as required under 3 AAC 306.730;
- (5) transport marijuana in compliance with 3 AAC 306.750;
- (6) conduct in-house testing for the marijuana cultivation facility's own use;
- (7) provide marijuana samples to a licensed retail marijuana store or marijuana product manufacturing facility for the purpose of negotiating a sale;[.]

**(8) begin initial operations at the time of preliminary inspection with up to 12 mature, non-flowering plants, designated and used as mother plants; any number of immature plants; and any number of seeds for cultivation;**

**(9) introduce a new strain after written approval by the director on a form prescribed by the board, by:**

**(A) receiving not more than 6 clones or cuttings from a person 21 years of age or older, without compensation; or**

**(B) receiving not more than 10 seeds from a person 21 years of age or older, without compensation.**

(b) A licensed standard marijuana cultivation facility may also apply for a marijuana product manufacturing facility license and a retail marijuana store license. A standard marijuana cultivation facility that obtains any other marijuana establishment license shall

(1) conduct any product manufacturing or retail marijuana store operation in a room completely separated from the marijuana cultivation facility by a secure door when co-located; and

(2) comply with each provision of this chapter that applies to any other type of marijuana establishment license that the standard marijuana cultivation facility licensee obtains.

(c) A licensed standard marijuana cultivation facility may not

(1) sell, distribute, or transfer marijuana or a marijuana product to a consumer, with or without compensation;

(2) allow any person, including a licensee, employee, or agent, to consume marijuana or a marijuana product on the licensed premises or within 20 feet of the exterior of any building or outdoor cultivation facility on the licensed premises;

(3) treat or otherwise adulterate marijuana with any organic or nonorganic chemical or other compound to alter the color, appearance, weight, or odor of the marijuana;

(4) except as permitted under a marijuana product manufacturing facility license, extract marijuana concentrate, using any process described in 3 AAC 306.555, at the licensed premises;

(5) sell marijuana that is not packaged and labeled in compliance with 3 AAC 306.470 and 3 AAC 306.475;[.]

**(6) introduce marijuana or marijuana product, including plants and seeds, onto the licensed premises from any outside source after the initial preliminary inspection, except as acquired from another licensed cultivation facility and accounted for in the marijuana cultivation facility's marijuana inventory tracking system as required under 3 AAC 306.730, or as allowed under (a)(9).**

3 AAC 306.990 is amended to read:

**3 AAC 306.990(a). Definitions**

(a) In AS 17.38 and this chapter,

(1) "affiliate" means 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;

(2) "assisting" does not include

(A) using, displaying, purchasing, or transporting marijuana in excess of the amount allowed in AS 17.38.020; AS 17.38.020;

(B) possessing, growing, processing, or transporting marijuana plants in excess of the number allowed in

(C) growing marijuana plants for another person in a place other than

(i) that other person's primary residence; or

(ii) a garage, shed, or similar place under the other person's control;

(3) "delivering"

(A) means handing to a person who purchases the product on licensed premises only;

(B) does not include transferring or transporting to a consumer off licensed premises;

(4) "flowering" means a marijuana plant that has visible crystals, buds, or flowers, or for which the exposure to light is scheduled with the intent to produce crystals, buds, or flowers;

(5) "immature" means a marijuana plant **18 inches or less in height**, with no visible crystals, buds, or flowers, and in which the exposure to light is scheduled with the intent to prevent formation of crystals, buds, or flowers;

(6) "in public"

(A) means in a place to which the public or a substantial group of people has access;

(B) except as provided in (C) of this paragraph, includes highways, transportation facilities, schools, places of amusement or business, parks, playgrounds, prisons, and hallways, lobbies and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence;

(C) does not include an area on the premises of a licensed retail marijuana store designated for onsite consumption under 3 AAC 306.305;

(7) **"mature" means a marijuana plant over 18 inches in height;**

**(8)** "personal cultivation" does not include

(A) using, displaying, purchasing, or transporting marijuana in excess of the amount allowed in AS 17.38.020; AS 17.38.020;

(B) possessing, growing, processing, or transporting marijuana plants in excess of the number allowed in

(C) growing marijuana plants for another person in a place other than

(i) that other person's primary residence; or

(ii) a garage, shed, or similar place under the other person's control;

(9)[(8)] "possess" means having physical possession or control over property;

(10)[(9)] "registration" means licensure or license;

(11)[(10)] Repealed 10/11/2017.