



MEMORANDUM

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

DATE: June 13, 2018

FROM: Erika McConnell, Director
Marijuana Control Board

RE: Staff Recommendations for
Regulations Projects

Staff recommends that the board open the following regulations projects, some of which have been discussed by the board at previous meetings. For items 1-5, staff will bring draft language to the next board meeting, if so directed by the board.

1. Protest by local government

Currently protests by local governments must be upheld by the board unless the protest is found to be arbitrary, capricious, and unreasonable. The most frequent protests received by the board relate to local government requirements that have not been fulfilled, but are likely to be fulfilled in the future—staff informally calls these “conditional protests.” The board is required to uphold protests, but in actuality allows conditional protests to be resolved while an applicant sits in “approval with delegation” status. Technically this is not consistent with the requirements of the regulation. Staff recommends amending 3 AAC 306.060 to provide two types of protests to local governments with two different board responses.

2. When public notice expires and time limit for application completeness

Staff has brought this issue to the board previously, and continues to recommend that the board open a regulations project to set an “expiration” on public notice, as well as to modify 3 AAC 306.025(f) regarding what it means to “complete” an application in that section.

3. Expiration language and dates

The existing language in 3 AAC 306.035 does not clearly state which licenses are required to submit renewal applications during a given renewal season. With the board’s support, and based off of the language in subsections (a) and (c), staff has determined for the past two years that any license that is in Active – Operating status on or before June 30 is required to renew. However, subsections (f) and (g) of the regulation could be interpreted to require any licenses that are operating on or before August 31 to renew. Staff recommend that the board open a regulations project to make this section clear.

4. Wholesale of concentrates to retail licensees

Current regulations do not allow for marijuana concentrates or other products to be sold wholesale to retail marijuana stores. We have had a few applicants indicate that they wish to sell concentrates in wholesale packages to retail stores, to be packaged and labeled for sale to the consumer at the retail level. The licensing team is wondering if the board has any interest in opening a regulations project to amend 3 AAC 306.565(c), to allow for wholesaling to retail licensees, so that the retail store may offer deli-style sale of concentrates.

5. Universal THC symbol

Many other states with adult use marijuana programs have adopted a universal THC symbol that must be placed on all packaging and stamped on all edible products (within reason). Such a symbol allows individuals to identify infused edible products if the products have been separated from their packaging. AMCO has received approximately half a dozen inquiries from schools regarding edible products found at the school—if a universal symbol was required for commercially produced infused edibles, it would assist schools, among others, in identifying whether suspicious food products came from the commercial market.

6. Residency

Staff recommends amending 3 AAC 306.015(e)(2) to revise the definition of residency to clarify that the standard for being a licensee is eligibility for the permanent fund dividend, and to add an exception to the renewal regulations at 3 AAC 306.035 for a temporary good cause of not being eligible for a PFD. See attached draft.

7. Out-of-state investment in testing licenses

The board has already opened this regulations project. See attached draft.

3 AAC 306.015(b) is amended to read:

(b) **Except as allowed in 3 AAC 306.035(h), the**[THE] board will not issue, **renew, or transfer** a marijuana establishment license to

(1) an individual or a sole proprietorship unless the individual or proprietor is a resident of the state;

(2) a partnership unless each partner is a resident of the state;

(3) a limited liability company unless the limited liability company is qualified to do business in the state and each member of the limited liability company is a resident of the state; or

(4) a corporation unless the corporation is incorporated or qualified to do business in the state and each shareholder is a resident of the state.

(Eff. 2/21/2016, Register 217; add'l 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 306.015(e)(2) is amended to read:

(2) “resident of the state” means a person who **is eligible at the time of application for the most recent**[MEETS THE RESIDENCY REQUIREMENT UNDER AS 43.23 FOR A] permanent fund dividend [IN THE CALENDAR YEAR IN WHICH THAT PERSON APPLIES FOR A MARIJUANA ESTABLISHMENT LICENSE UNDER THIS

CHAPTER]. (Eff. 2/21/2016, Register 217; add'l 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 306.035 is amended to add a new subsection to read:

(h) The board may renew a license where one or more licensees is not considered a resident of the state as defined at 3 AAC 306.015(e)(2), if, as part of the renewal application, the licensee submits documentation to the board's satisfaction that

(1) the licensee's primary residence is in the state;

(2) the licensee has good cause for not meeting the requirements to be a resident of the state as defined at 3 AAC 306.015(e)(2); and

(3) the cause of not meeting the requirements to be a the resident of the state as defined at 3 AAC 306.015(e)(2) is temporary. (Eff. 2/21/2016, Register 217; am 12/28/2017, Register 224; 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 306.015 is amended by adding a new subsection to read:

(f) Notwithstanding (b) of this subsection, the board may issue a marijuana testing facility license to

(1) a partnership if at least half of the partnership interest is held by partners who are residents of the state;

(2) a limited liability company if the limited liability company is qualified to do business in the state and at least half of the ownership of the company is held by members who are residents of the state;

(3) a corporation if the corporation is incorporated or qualified to do business in the state and at least half of the corporate stock is held by shareholders who are residents of the state. (Eff. 2/21/2016, Register 217; add'l 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		