



MEMORANDUM

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

DATE: June 13, 2018

FROM: Erika McConnell, Director
Marijuana Control Board

RE: Regulations Project – Plant Count for
New Cultivators

This project was noticed for public comment from April 26 to June 1, 2018.

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.

The regulations regarding the marijuana inventory tracking system are amended to clarify that seeds must be tracked in the inventory tracking system.

At the April meeting, I asked the board if there should be a limit on how often new strains can be introduced. The board decided not to add any language on this issue but to wait and hear what the public had to say during the public comment period.

Potential Actions: Any substantive amendments will require the project to be put out again for public comment. Otherwise, the project may be adopted. As there were few comments on this proposed regulation and only one that addressed strain introduction limits, I recommend that the board adopt the regulation as written and monitor the frequency of strain introductions to determine whether a limit needs to be added in the future.

NOTE: The regulation as drafted and as posted for public comment includes the definition of “affiliate” in 3 AAC 306.990(a)(1) as part of a section being amended, but unrelated to this regulations project. A regulations project adopted by the board but not yet effective deletes the definition of “affiliate.” We will work with the Department of Law to reformat the final draft that is sent to them to ensure that the definition of “affiliate” remains deleted.

(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 by an employee or agent of the board with

(A) 12 or fewer mature, non-flowering plants, designated and used as mother plants;

(B) any number of immature plants; and

(C) any number of seeds for cultivation on the licensed premises;

(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, for cultivation on the licensed premises.

(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 **a marijuana product manufacturing facility license or a retail marijuana store** [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 provided under (a)(9) of this section. (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 306.730(a) is amended to read:

(a) A marijuana establishment shall use a marijuana inventory tracking system capable of sharing information with the system the board implements to ensure all marijuana cultivated and sold in the state, and each marijuana product processed and sold in the state, is identified and tracked from the time the marijuana is a [PROPAGATED FROM] seed or cutting[, THROUGH TRANSFER TO ANOTHER LICENSED MARIJUANA ESTABLISHMENT, OR USE IN MANUFACTURING A MARIJUANA PRODUCT,] to a completed sale of marijuana or a

marijuana product, or disposal of the harvest batch of marijuana or production lot of marijuana product. (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 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)[(7)] "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. (Eff. 2/24/2015, Register 213; am 2/21/2016, Register 217; am 10/11/2017, Register 224; am _____, Register _____)

Authority:	AS 17.38.010	AS 17.38.121	AS 17.38.200
	AS 17.38.040	AS 17.38.150	AS 17.38.900
	AS 17.38.070		

From: Denny
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Ability to grind poor quality bud
Date: Thursday, May 24, 2018 12:48:15 PM

High Tide Distributors, Lic. 12398.

We fully support a rule change allowing poor quality bud to be ground and sold as trim. This gives us another avenue to sell and pay taxes on, a crop that would otherwise be total loss, both to us, and the State Dept of Revenue. I think it would be a win for all.

On another note, I would strongly support a change in the rules regarding bringing in of new genetics (l:e: seeds) to existing facilities. Current rules strongly favor new business versus established licensee's in the ability to offer the latest in products/ genetics. In a strongly consumer driven market, new genetics are definitely one of the keys to a strong, thriving business. Having to depend on receiving new genetics from other cultivators is an almost impossible endeavor. If they have strong genetics the public wants, they are going to keep and protect it for themselves. We would greatly support a move to change this. Again, we believe this ability would make existing cultivation businesses stronger, therefore benefitting the State Dept of Revenue and Taxation as well as the people. Thank you for your time. Denny & Tena Humphrey, High Tide Distributors.

Sent from [Mail](#) for Windows 10

Public comment from R.C. Tinderbox:

3 AAC 306.360. Restriction on advertising of marijuana and marijuana products:

We feel that Advertising and Promotions should be allowed with the same regulations as Alcohol.

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

We feel adding new strains are such an important part for the growth of this industry. If allowed, we feel that up to 10 different stains per month but only 6 plants or clones can be delivered. We feel this is reasonable request for the ever-changing strains that are being developed.

3 AAC 306.730. Marijuana inventory tracking system:

We have no problem for or against the inventory tracking system.

3 AAC 306.700. Marijuana handler permit:

We have no problem for or against this section.

3 AAC 306.720. Video surveillance:

We feel a compromise would be 80 days instead of 120. At some point the public needs to take some responsibility and when they see something that they feel is not in regulation, they report it right away, so enforcement can follow up with the complaint. 120 days is expensive for the business to purchase another DVR for the longer recording time frame. We also feel that the video surveillance should not be use as a tool for disgruntled employees or public to try to use against the industry because they got upset and decided they saw something 2 months ago and NOW want to use it to get the facility or store front in trouble. I understand if you have nothing to hide this would not be a problem, but it is the fact that it is quite an added expense to the industry.

3 AAC 306.990. Definitions of recreational or youth facility:

**(35) "recreation or youth center" means a building, structure, athletic playing field, or playground
(A) run or created by a local government or the state to provide athletic, recreational, or leisure activities for persons under 21 years of age; or
(B) operated by a public or private organization licensed to provide shelter, training, or guidance for persons under 21 years of age;**

We have no problem with the definition as it stands

3 AAC 306.990. Definitions of Mature and Immature Marijuana plants:

**(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 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.**

We feel that a definition of Mature plant should be defined as; a plant that is in flower with finished production of trichomes that are viable for quality.

Immature plant should be defined as any plant in the clone, vegetative or early flower stage with visible signs of flower forming.



Stephen W. Brashear
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June 4, 2018

Marijuana Control Board

Mark Springer

Loren Jones

Brandon Emmett

Nicholas Miller

Public Safety representative (TBA)

Alcohol & Marijuana Control Office

550 West Seventh Avenue, Suite 1600

Anchorage, Alaska 99501

RE: Proposed 3 AAC 306.405; 3 AAC 306.730; 3 AAC 306.990 – marijuana plant count, seed-to-sale tracking, and definition of mature and immature plants.

Dear Sirs:

Great Northern Cannabis, Incorporated (GNC) is an Alaska corporation with approximately 45 full- and part-time employees, and a number of Alaskan shareholders from a wide variety of backgrounds. We currently own and operate a cultivation facility and a retail store, and we are in the process of permitting additional facilities. We thank you for the opportunity to comment on the proposed advertising and promotion regulations for licensed marijuana businesses.

In general, GNC support proposed changes and is particularly appreciative of the effort to provide the means for introducing new strains.

While not overly concerned with the proposed changes to 3 AAC 306.990 (a), GNC considers them unhelpful. We understand the continued desire to simplify the standard for maturity but there are many different variables and strain characteristics that determine maturity which a height measurement fails to capture. Some strains grow long and tall in the vegetative state, some strains grow short and bushy. If a plant doesn't receive sufficient light concentration it can stretch upwards well beyond 18

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inches yet still be far from mature. The existing "no visible crystals, buds or flowers" remains better suited to define maturity.

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,

A handwritten signature in blue ink that reads "Stephen W. Brashear".

Stephen W. Brashear

From: dollynda Phelps
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: public comment - new seeds or cuttings
Date: Thursday, May 24, 2018 11:22:24 AM

The proposed regulation to allow the introduction of seeds or cuttings after initial licensing is a necessary change. Currently, AS 17.38.070(b)(6) allows licensed cultivation facilities with a current, valid registration (license) to obtain seeds or cuttings from anyone 21 or older. Please adopt the proposed regulation which aligns with current state law, allowing the introduction of new seeds or cuttings. Well done.

Dollynda Phelps

907-252-8026

Marijuana Control Board,

Plant count public comment.

I appreciate the addition of how to bring in new strains into existing facilities, however it also states in (c) (6) it then prohibits that from happening. I believe this part should also have an exemption that allows for the entry of a new strain through a form provided by the board so that the section does not contradict itself.

I support the wording to clear up what is a “mature plant” vs an “immature plant.”

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

(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 provided under (a)(9) of this section.

Caleb Saunders, CEO – Green Jar, President – Matanuska Valley Cannabis Business Association.