



MEMORANDUM

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

DATE: August 15, 2018

FROM: Erika McConnell, Director
Marijuana Control Board

RE: Regulations Project – Expiration of
Public Notice

This proposal requires that public notice mandated in 3 AAC 306.025(b) be given within the 90 days preceding the submittal of all application requirements. This will ensure that public notice does not get “stale.” Without this provision, at times public notice is given but the application does not proceed to the board until a year or more later. Members of the public who may have been concerned about the application and who may have even submitted an objection, will have no reason to think that they should be paying attention a year later. For public notice to be effective, it must be timely. This language is taken from the alcohol regulations, although 90 days is proposed rather than the 60 days provided in 3 AAC 304.125.

In addition, this proposal allows the director to give an applicant 90 days to submit all the application documents or the application will be voided. This provision is important to allow AMCO to resolve applications where there has been no applicant activity for many months. The intent is not to hurry applicants who continue to make progress on their applications, but to address applications that appear to be abandoned. For example, AMCO used 3 AAC 306.025(f) in October of 2017 to resolve applications initiated in 2016 (at least 10 months earlier) upon which no progress had been made. However, subsection (f) is really intended for after AMCO staff has reviewed an application and determined what corrections are needed to complete it. A separate section, as proposed in this draft, is recommended to address missing application elements prior to staff review.

Options for the board:

- Put out for public comment as written
- Amend and put out for public comment
- Send back to staff for revisions
- Close the project without action

3 AAC 306.025 is amended to read:

3 AAC 306.025. Application procedure. (a) An applicant must initiate a new marijuana establishment license application on a form the board prescribes, using the board's electronic system.

(b) [AS SOON AS PRACTICAL AFTER] After initiating a new marijuana license application, the applicant must give notice of the application to the public by

(1) posting a copy of the application, on the form the board prescribes, for 10 days at

(A) the location of the proposed licensed premises; and

(B) one other conspicuous location in the area of the proposed premises;

(2) publishing an announcement once a week for three consecutive weeks in a newspaper of general circulation in the area; in an area where no newspaper circulates, the applicant must arrange for broadcast announcements on a radio station serving the local area where the proposed licensee seeks to operate twice a week for three successive weeks during triple A advertising time; the newspaper or radio notice must state

(A) the name of the applicant;

(B) the name and location of the proposed premises;

(C) the type of license applied for along with a citation to a provision of this chapter authorizing that type of license; and

(D) a statement that any comment or objection may be submitted to the board; and

(3) submitting a copy of the application on the form the board prescribes to

(A) each local government with jurisdiction over the licensed premises;

and

(B) any community council in the area of the proposed licensed premises.

(c) After the applicant completes the notice requirements in (b) of this section and submits each remaining application requirement listed in 3 AAC 306.020, the applicant must pay the application and **license**[LICENSING] fees set out in 3 AAC 306.100. **The notice requirements in (b) of this section must be given within the 90 days preceding the submittal of all application requirements listed in 3 AAC 306.020 and the application and license fee.**

[THE APPLICANT MUST THEN USE THE BOARD'S ELECTRONIC SYSTEM TO INFORM THE BOARD THAT THE APPLICANT HAS SUBMITTED A COMPLETE APPLICATION.]

(d) When the director receives an application for a marijuana establishment license, the director shall determine if the application is complete. Any application for a marijuana establishment license that the director receives without the application **and license** fee is incomplete. If the director determines the application is complete, the director shall immediately give written notice to;

(1) the applicant;

(2) each local government with jurisdiction over the applicant's proposed licensed premises;

(3) the community council if the proposed licensed premises are located within the boundary of a community council established by municipal charter or ordinance; and

(4) any nonprofit community organization that has requested notification in writing.

(e) If an application for a marijuana establishment license is incomplete, the director shall notify the applicant by electronic mail at the address provided by the applicant and shall either

(1) return an incomplete application in its entirety; or

(2) request the applicant to provide additional identified items needed to complete the application.

(f) When the director informs an applicant that its application is incomplete as provided in (e) of this section, the applicant must complete the application not later than 90 days after the date of the director's notice. If an applicant fails to complete its application during the 90-day period after the director's notice, the applicant must file a new application and pay a new application fee to obtain a marijuana establishment license.

(g) The director may, not less than 90 days after initiation of an application, inform an applicant by electronic mail at the address provided by the applicant that missing application requirements listed in 3 AAC 306.020 must be submitted within 90 days. If an applicant fails to submit all missing application requirements during the 90-day period after the director's notice, the applicant must file a new application and pay a new application fee to obtain a marijuana establishment license.