



MEMORANDUM

TO: Chair Springer and Members of the
Marijuana Control Board

DATE: October 16, 2018

FROM: Erika McConnell, Director

RE: Director's Report

OPERATIONS

AMCO has sought and received approval to hire a Regulations Specialist II. A dedicated staff member to manage the regulations changes for the ABC and MC boards will allow our local government specialist, Jed Smith, to perform those duties for which he was hired, namely to do outreach and education to local governments, licensees, and the public. The Regulations Specialist position will be posted on Workplace Alaska within the next week or two.

In FY18, AMCO forwarded \$115,600 to local governments throughout Alaska. AS 17.38.200(c) states, "Upon receiving an application or renewal application for a marijuana establishment, the board shall immediately forward a copy of each application and half of the registration application fee to the local regulatory authority for the local government in which the applicant desires to operate the marijuana establishment, unless the local government has not designated a local regulatory authority pursuant to AS 17.38.210(c)." This information is posted on our website under "Other Marijuana Resources."

REGULATIONS

- **Current Regulations Projects**

Attached to this report is a regulations projects status spreadsheet.

SPECIFIC ISSUES

Transfer Applications

In June, the board directed the staff to prioritize transfer applications over new applications, stating that the operating businesses are driving the tax revenue and paying the fees, so they need to be able to remain in operations to facilitate commerce. The board felt that it is important for operating businesses not to have to wait six months if the owner needs to retire for medical reasons or has some other reason to need to sell their business. Since June, staff has prioritized transfer applications. However, some transfer applications have been submitted for licenses that are still in "active-pending inspection status" and have not yet begun operating. Given the board's reasons for

prioritizing transfers, should transfers for businesses that are not operating continue to be prioritized over new applications?

In addition, AMCO has received and accepted transfer applications for businesses that are in delegated status. 3 AAC 306.045(a) states, "A person may not receive or transfer a marijuana establishment license or a controlling interest in a marijuana establishment license issued to a partnership, including a limited partnership, a limited liability company, a corporation, or a local government, without applying for and receiving the written consent of the board." An application in delegated status is still an application—the board has delegated the authority to issue the license to the director at such time as all the requirements have been met, but since they are not yet met, no license has been issued. During the application process, the only way to change the proposed ownership of the proposed marijuana establishment is to roll back the application to "new" status so that the applicant may modify the proposed ownership. In that scenario, the application would have to come back to the board for approval. Should AMCO cease accepting transfer applications for businesses who are not yet licensed? My recommendation is that transfer applications should be accepted only for licensees, as stated in 3 AAC 306.045(a).

BUDGET INFORMATION

EXPENDITURES	FY18 Enacted	FY18 Actual	FY19 Enacted	FY19 Actual (thru September)
Personal Services	2,145,000	1,851,296	2,177,200	416,485
Travel	183,700	97,331	183,700	20,647
Services	1,320,500	1,138,047	1,320,500	89,313
Commodities	159,100	72,164	159,100	3,850
Total	3,808,300	3,158,838*	3,840,500	530,295

*Of this, \$1,541,097 was alcohol-related expenditures and \$1,617,741 was marijuana-related expenditures

REVENUE	FY18 Actual	FY19 Actual (thru September)
Marijuana	1,524,618*	705,074*
Alcohol	2,098,396	96,276
Total	3,623,014	801,350

*does not include general fund allocation

In FY18, AMCO received \$1,052,500 from the General Fund. In FY19, AMCO received \$538,300 from the General Fund. These funds are expended first, and any marijuana revenue in excess of our allowed expenditures is put into a carry-forward fund (see below). In FY20, AMCO will receive no general fund allocation and will need to support itself entirely from application and license fees. In the FY19 operating budget (HB 286), the legislature adopted the following two intent statements:

It is the intent of the legislature that licensing and application fees related to the regulation of the marijuana industry be maintained at a level that allows for the sum of \$4,646,100 to lapse into the general fund, at which time licensing and application fees may be adjusted to cover anticipated annual operating costs for marijuana regulation.

It is the intent of the legislature that the Alcohol and Marijuana Control Office report to the co-chairs of the Finance Committees and the Legislative Finance Division by January 1, 2020, the amount of program receipts from the licensing and application fees related to the regulation of marijuana that lapsed into the general fund.

AMCO has been authorized to carry forward any marijuana revenue collected but not spent in FY16-FY19. Starting in FY20, the carry-forward authority will be limited to be equal to one year's budget. Any additional money will be transferred to the general fund. This carry-forward money is only to cover a shortfall in case marijuana revenue does not equal marijuana expenses starting in FY20. The carry-forward revenue is currently \$2,625,023.

As of September 18, 2018, there were

- 249 licenses in "active-operating" status,
- 93 licenses/applications in "active-pending inspection" and "delegated" status,
- 96 applications in "tabled," "complete," "incomplete," and "under review" status
- 247 applications in "initiated" status

To determine the revenue AMCO may collect from marijuana by the end of FY19 (June 30, 2020), I made the following assumptions:

- 90% of active-operating licenses will renew in 2019
In 2017, all active-operating licenses renewed. In 2018, 97.7% of active-operating licenses renewed. As more licenses come online, the increase in product supply will likely cause some businesses to fail and either surrender their license or not renew.
- 70% of licenses/applications in the following statuses will become active-operating and renew in 2019: active-pending inspection, delegated, tabled, complete, incomplete, under review
The 70% figure is a conservative estimate based on my sense of how many licensees remain in delegated and pending inspection status for a lengthy period of time.
- 10% of applications in initiated status will become active-operating and renew in 2019
This conservative estimate tries to balance the following factors: between June of 2017 and May of 2018, the Marijuana Control Board (MCB) acted on approximately 135 license applications processed by two examiners; the average number of new license applications on a meeting agenda is about 25 and there are four more board meetings before the end of FY19 where these license applications could make the agenda and 81 applications in incomplete and under review status; AMCO now has three examiners working on marijuana; the number of transfer and change applications is increasing which takes away from work on new license applications.

These assumptions lead to an estimate of 383 licenses renewing for the 2019/2020 licensing period with AMCO collecting \$1,550,900 in application and license fees. That estimate may be high, as some licensees submit renewal applications and fees after the June 30 deadline, so their fees go into the FY20 revenue. In addition to the application and license fees, AMCO collects handler permit and change fees, which totaled approximately \$226,000 in FY18. Assuming a similar amount for FY19, we anticipate collecting approximately \$1,775,000 in FY19.

If AMCO is to add resources to improve service to licensees, and in order to begin to repay the general fund, the board should consider increasing license fees, as discussed briefly at the August meeting. The board may want to consider only raising the license fee for renewals, so that the fee increase would only be for operating businesses and not for applicants who have not yet started to earn money.

	10% Initiated	70% Pending	90% Operating	Estimated license/application fee revenue under current fee structure
Testing	0	2	2	\$ 5,200
Limited Cultivation	7	41	58	139,200
Standard Cultivation	6	37	83	669,000
Concentrate Manufact.	2	4	5	14,700
Product Manufact.	4	15	14	175,700
Retail	6	34	63	547,100
Total	25	133	225	\$ 1,550,900

	\$1,000 LF ↑ \$1,500 \$5,000 LF ↑ \$6,000	\$1,000 LF ↑ \$2,000 \$5,000 LF ↑ \$7,000	Renewal LF only \$1,000↑\$1,500 \$5,000↑\$6,000	Renewal LF only \$1,000 LF ↑ \$2,000 \$5,000 LF ↑ \$7,000
Testing	\$ 7,200	\$ 9,200	\$ 7,200	\$ 9,200
Limited Cultivation	192,200	245,200	188,700	238,200
Standard Cultivation	795,000	921,000	789,000	909,000
Concentrate Manufact.	20,200	25,700	19,200	23,700
Product Manufact.	208,700	241,700	204,700	233,700
Retail	650,100	753,100	644,100	741,100
Total	\$ 1,873,400	\$ 2,195,900	\$ 1,852,900	\$ 2,154,900
Increase from current	322,500	645,000	302,000	604,000

2019 MEETING SCHEDULE

Board meetings in 2019 have been scheduled based on the statutory requirement for applications to be brought to the board within 90 days, and for the board to meet at least once per year in each judicial district.

Date	Location
February 20-22	Juneau (1 st judicial district)
May 1-3	Anchorage (3 rd judicial district)
July 10-12	Fairbanks (4 th judicial district)
September 18-20	Nome (2 nd judicial district)
November 20-22	Palmer (3 rd judicial district)

NEXT MEETINGS

The next regularly scheduled MCB meeting is December 20-21 in Anchorage. Applications must be complete and any other documents for the board must be submitted to our office by November 30, 2018, to be on the December agenda. The board has scheduled an oral public hearing on the onsite consumption draft regulations for December 19, in Anchorage.

STATISTICS

Retail Sales

July	\$11,259,810
August	\$13,028,161
September	\$13,333,116

Total retail sales in 2018 through 9/30/18: \$89,593,259

Total retail sales from program inception to 9/30/18: \$148,845,316

Taxes

<i>Month</i>	<i># of taxpayers</i>	<i>Taxes paid</i>
June	100	\$1,257,513
July	107	\$1,369,022
August	111	\$1,540,427

Total taxes collected in 2018 through 8/31/18: \$9,438,332

Total taxes from program inception to 8/31/18: \$15,753,105

MCB REGULATIONS PROJECTS

DOL Project Number	Topic	Date Opened by MCB	FY	Board mbr point person(s)	Current Status/Notes	Date Adopted by MCB	Effective Date
JU2015200669	Omnibus Regulations				Adopted by board; filed with Lt Gov	11/20/15 Pg 23	2/21/16
JU2016200436-1	Conduct of board meetings in alcohol	2/11/16 pg 2	16		Adopted by board; filed with Lt Gov	7/6/16	12/28/16
JU2016200436-2	[Reserved for anticipated future work]						
JU2015201028	Onsite consumption	2/11/16	16		Board voted not to continue project 2/2/17	N/A	N/A
JU2016200617	Handler permits	4/27/16; 2/2/17	17		sent to Lt. Gov 4/20/18	1/25/18	5/23/18
JU2016200611	Testing	6/9/16 pg 22	16		signed by Lt. Gov. 6/5/17	4/5/17	7/5/17
JU2016200610	Advertising requirements	6/9/16 pg 22	16	Schulte	vote to put out for comment failed 7/14/17	N/A	N/A
	Space planning and layout		16				
	Labeling and packaging		16				
JU2016200612	Video surveillance (Schulte handout)	6/9/16 pg 22	16	Schulte			
JU2016200609	Participation of outside entities – residency requirements (BE handout)	6/9/16 pg 22	16	Emmett			
JU2016200605	Waste disposal (Springer motion)	6/9/16 pg 23	16	Springer	Combined with waste disposal #2	N/A	N/A
JU2016200613	Retail store notices	7/8/16 pg 16	17		signed by Lt. Gov. 6/22/17	4/5/17	7/22/17
JU2016200837	Requiring fingerprints for new owners	9/7/16	17		signed by Lt. Gov. 6/19/17	4/5/17	7/19/17
JU2016200838	What happens to existing licenses if local gov opts out by ordinance	9/7/16	17		signed by Lt. Gov. 6/27/17	4/5/17	7/27/17
JU2016200839	DEC approval before acceptance of license application (food safety permit)	9/7/16	17		signed by Lt. Gov. 6/27/17	4/5/17	7/27/17
	Advertisement; definition of “advertisement” and “logo”	12/7/16	17		Board took no action on proposal (2/2/17)	N/A	N/A
JU2017200165	Transportation	2/2/17	17		signed by Lt. Gov. 9/11/17	7/13/17	10/11/17
JU2017200542	Quality control	2/2/17	17		Signed by Lt Gov 4/25/18	11/29/17	5/25/18
	Notify AMCO of crime on licensed premises	5/15/17	17	Springer	Signed by Lt Gov 4/25/18	11/29/17	5/25/18
JU2018200397	Waste disposal #2	2/2/17	17		Signed by Lt. Gov 9/20/18	6/15/18	10/20/18
JU2017200548	Onsite Consumption	3/7/17	17		Voted out for public comment on 7/14/17; cmts due 10/27/17; on 11/14 agenda; referred to cmte and postponed to April 2018 mtg 11/15/17; new draft 4/4/18 agenda; postponed to June '18; postponed to August '18; out for 60 day cmt 8/15/18; cmts due 11/1/18		
JU2018200370	Plant count for new cultivators	4/5/17	17		Signed by Lt. Gov on 9/20/18	6/15/18	10/20/18

MCB REGULATIONS PROJECTS

DOL Project Number	Topic	Date Opened by MCB	FY	Board mbr point person(s)	Current Status/Notes	Date Adopted by MCB	Effective Date
JU2017200536-1	Require testing licensee to notify director of significant equipment failure	5/15/17	17	Springer	Signed by Lt. Gov on 7/24/18	11/29/17	8/23/18
	Separation distance	4/5/17	17	Springer	Draft on 9/14 agenda; no action	N/A	N/A
JU2017200477	Timing of public objections	5/15/17	17	Emmett	Signed by Lt. Gov on 11/28/17	9/15/17	12/28/17
	Local government jurisdiction		17				
JU2017200533	Revise definition of “direct or indirect financial interest” at 3 AAC 306.015(e)	5/15/17	17	Springer	Voted out for public comment 7/14/17; posted 8/14/17; cmts due 9/29/17; on 11/14 agenda; failed 11/29/17	N/A	N/A
	“Advertisement” and “promotional activities”		17	Mlynarik; Miller	Signed by Lt. Gov 9/17/18	6/15/18	10/17/18
JU2017200827	Allow licensees to participate in trade shows	5/15/17	17	Emmett	Signed by Lt. Gov 7/12/18	1/25/18 & 5/7/18	8/11/18
	Require corporation bylaws	9/14/17	18	Jones	Signed by Lt. Gov 7/12/18	1/25/18	8/11/18
	Multiple businesses on a lease		18			1/25/18	8/11/18
	Removal of affiliates		18			1/25/18	8/11/18
	Charging for multiple inspections	9/14/17	18		Signed by Lt. Gov 7/12/18	1/25/18	8/11/18
	Local gov approval of odor emissions	9/14/17	18	Springer	Signed by Lt. Gov 7/12/18	1/25/18	8/11/18
JU2018200331.003	Revise definition of “recreation or youth center”	5/15/17	17	Miller	Draft on 7/12 agenda; sent back to drawing board; new draft on 4/4/18 agenda; voted out for public comment 4/6/18; posted 4/19; cmts due 6/1; tabled to August; adoption vote failed 8/15/18	N/A	N/A
JU2018200331.002	Extend video storage retention time	11/14/17	18	Springer	Draft on 4/3/18 agenda; voted out for public comment 4/6/18; posted 4/19; cmts due 6/1; amended and put out for comment 6/15/18; cmts due 9/7/18; on 10/16 agenda		
JU2018200331.001	Date of issuance of handler permits	1/25/18	18	Jones	Signed by Lt Gov 8/8/18	6/15/18	9/7/18
JU2017200829	Definition of resident	9/14/17	18		Draft on 11/14 agenda; voted out for public comment 11/29/17 comment period closed 1/3/18; approved 1/25/18; rescinded 5/7/18	N/A	N/A
	Financial background investigations	9/14/17	18	Jones	Draft on 11/14 agenda; voted out for public comment 11/29/17 comment period closed 1/3/18; sent to cmte 1/25/18		
	Random sampling	2/2/17	17		Draft on 11/14 agenda; referred to testing cmte 11/29/17		

MCB REGULATIONS PROJECTS

DOL Project Number	Topic	Date Opened by MCB	FY	Board mbr point person(s)	Current Status/Notes	Date Adopted by MCB	Effective Date
	Require trim that is sold separately to be tested separately; kief	5/15/17	17	Emmett; Miller	Voted out for public comment 7/14/17; posted 8/15/17; cmts due 9/22/17; on 11/14 agenda; referred to testing cmte 11/29/17		
	Streamline edibles testing	7/14/17	18	Emmett	Draft on 11/14 agenda; referred to testing cmte 11/29/17		
	Overlapping premises	1/25/18	18	Jones			
JU2018200720	Allow out-of-state investment in testing labs	1/25/18	18	Springer	Minor amendment and voted out for public comment 6/15/18; cmts due 9/7/18; on 10/16 agenda		
JU2018200819	License conversion	1/25/18	18	Jones	Initial draft on 8/15/18 agenda; out for cmt 8/15/18; cmts due 10/7; on 10/16 agenda		
JU2018200818	License expiration for renewal	6/15/18	18	Jones	Initial draft on 8/15/18 agenda; out for cmt 8/15/18; cmts due 10/7; on 10/16 agenda		
	Ownership change when licensees don't change	1/25/18	18	Jones	Initial draft on 8/15/18 agenda; out for cmt 8/15/18; cmts due 10/7; on 10/16 agenda		
	Wholesale concentrates to retail	6/15/18	18	Emmett	Initial draft on 8/15/18 agenda; out for cmt 8/15/18; cmts due 10/7; on 10/16 agenda		
	Sample jars	8/15/18	19	Emmett	Initial draft provided to board on 8/15/18; revise for October mtg		
JU2018200632.001	Testing Working Group Recs #1 – Part 1	6/15/18	18	Emmett	Signed by Lt. Gov 10/9/18	8/15/18	11/8/18
JU2018200632.002	Testing Working Group Recs #1 – Part 2		18		Parts of project referred to testing cmte 8/15/18		
JU2018200820	Expiration of public notice	6/15/18	18	Emmett	Initial draft on 8/15/18 agenda; out for cmt 8/15/18; cmts due 10/7; on 10/16 agenda		
JU2018200746	Definition of residency #2	6/15/18	18	Emmett	voted out for public comment 6/15/18; cmts due 9/7/18; on 10/16 agenda		
	Protest by local government						
JU2018200829	All licensees have handler permits	8/15/18	19	Jones	Voted out for cmt 8/15/18; cmts due 10/10/18; on 10/16 agenda		
	Effective date of ownership change	8/15/18	19	Jones	Voted out for cmt 8/15/18; cmts due 10/10/18; on 10/16 agenda		
	Handler permit renewal fee	8/15/18	19	Jones	Draft on 10/16 agenda		
	Follow approved operating plan	8/15/18	19	Emmett	Draft on 10/16 agenda		
	Inspection to cover all operations	8/15/18	19	Emmett	Draft on 10/16 agenda		
	Fine schedule	8/15/18	19	Jones	Sbcmte (Jones, Ankerfelt, Hoelscher) to work for December mtg		