



MEMORANDUM

TO: Chair Springer and Members of the
Marijuana Control Board

DATE: December 20, 2018

FROM: Erika McConnell, Director

RE: Director's Report

OPERATIONS

AMCO has hired a new Program Coordinator who will begin next week.

The Regulations Specialist position closed in mid-December and the interview/hiring process is proceeding.

The long-awaited office expansion has finally occurred. AMCO's lobby has moved from the west end of our hallway to the east end. Additionally we've improved our signs to be more clear about where to go once customers reach the 16th floor.

REGULATIONS

- **Current Regulations Projects**

Attached to this report is a regulations projects status spreadsheet.

SPECIFIC ISSUES

Delegation

Attached for your review is a delegation memo memorializing the delegation to the director to make minor forms changes.

Frozen Budz

I regret to inform the board that the owners of Frozen Budz have defaulted on their settlement agreement with the board. We are taking steps to implement the default provisions.

Texting Advisory

On November 14, AMCO sent out an advisory to all licensees that directed attention to 3 AAC 306.770(i) and stated that licensees were not permitted to send marketing text messages to customers. After a discussion with Mr. Miller, we determined that we had misinterpreted a confusing regulation due to the phrase "location-based devices, including cellular phones." On November 19, we sent another advisory to clarify that the regulation prohibited "location-based marketing" but

allowed texting to customers that had signed up within a marijuana establishment and that had an opt-out feature.

I recommend that the board open a regulations project to clarify the language in 3 AAC 306.770(i).

Please note that AMCO has received several complaints from individuals who have received text messages that they did not sign up for from marijuana establishments.

Management Agreements

I wish to make the board aware of a trend that we are beginning to see of management companies working for licensees. I have been contacted by at least one consulting company on behalf of a licensee, and in another situation, a licensee is wishing to hire a consulting company to run their business. In the latter situation, the licensee was required to put the management company on the license if he wished the management company to be the operator of the license.

The regulatory program for marijuana is set up so that the licensees are operating their license—management agreements are not contemplated. Of course many licensees will hire “managers” for a store or a cultivation facility, who is part of the employee hierarchy of the business. There is definitely a gray area between having an employee manager and hiring a management company to operate the license. The board should put some thought into where to draw the line between those.

Retests

I request that the board provide guidance on retests. 3 AAC 306.660 requires the approval of the director or the board to have a retest in the case of a failed test. As you know, my standards for approving a retest are high. I think the board should consider both requiring that supplementary representative samples be put aside at the time the initial sample is taken to be used for retests, and that two retests be required at two different labs so that the test results for two out of three tests are the final results. This should be done through a regulations change.

At times I get requests for retests of harvests that have not failed testing. In most cases, a licensee is unhappy with the potency result and wants a retest to confirm. The regulations don't contemplate additional testing once product has passed the required test. If additional potency tests are performed, we return to the same problem of which test is the correct test? Which test provides the information that is required to be provided to other licensees and placed on the label for consumers? Allowing multiple potency tests encourages potency shopping. I need guidance from the board on this issue.

Form Approvals

A regulatory change that became effective on October 20, 2018, requires board approval of three forms:

1. Request to send material that has failed the required test to be used to make a carbon dioxide- or solvent-based extract. (MJ-22b)
2. Request to retest material that has failed the required test. (MJ-22a)
3. Notice to the board of waste to be rendered unusable in three days. (MJ-15)

The three forms are attached for board consideration.

2019 MEETING SCHEDULE

The November 2019 meeting date has been changed so as not to conflict with the yearly Alaska Municipal League conference.

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 13-15	Palmer (3 rd judicial district)

NEXT MEETINGS

The next regularly scheduled MCB meeting is February 20-22, 2019, in Juneau. The meeting will begin in the afternoon of the 20th and continue for the full days of the 21st and 22nd. Applications must be complete and any other documents for the board must be submitted to our office by February 1, 2019, to be on the December agenda.

STATISTICS

Retail Sales

September	\$13,333,116	2016 Total Sales	\$1,689,329
October	\$14,604,943	2017 Total Sales	\$57,562,728
November	\$12,856,957	2018 Sales thru 11/30	\$117,055,159

Total retail sales in 2018 through 11/30/18: \$117,055,159

Total retail sales from program inception to 11/30/18: \$176,307,216

Taxes

<i>Month</i>	<i># of taxpayers</i>	<i>Taxes paid</i>	2016 Taxes	\$232,695
August	111	\$1,540,427	2017 Taxes	\$6,082,078
September	119	\$1,481,765	2018 Taxes to date	\$12,761,802
October	122	\$1,841,705		

Total taxes collected in 2018 through 10/31/18: \$12,761,802

Total taxes from program inception to 10/31/18: \$19,076,575

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; oral hearing 12/19/18		
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	Vote to adopt 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	vote to adopt failed 8/15/18	N/A	N/A
JU2018200331.002	Extend video storage retention time	11/14/17	18	Springer	vote to adopt failed 0-5 on 10/17/18	N/A	N/A
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		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		
	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; Jones to work on revisions for December February mtg		
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; adopted 10/17/18; sent to DOL 11/13/18; sent to Lt. Gov 12/13/18	10/17/18	

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
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; adopted 10/17/18; sent to DOL 11/13/18; sent to Lt. Gov 12/11/18	10/17/18	
	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; adopted 10/17/18; sent to DOL 11/13/18; sent to Lt. Gov 12/11/18	10/17/18	
	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; adopted 10/17/18; sent to DOL 11/13/18; sent to Lt. Gov 12/11/18	10/17/18	
JU2018200994	Sample jars	8/15/18	19	Emmett	Initial draft provided to board on 8/15/18; revise for October mtg; voted out for comment 10/17/18; comments due 12/12/18		
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
JU2018200989	Testing Working Group Recs #1 – Part 2 (Tracking and Grading)		18		Parts of project referred to testing cmte 8/15/18; voted out for comment 10/17/18; comments due 12/12/18		
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; adopted 10/17/18; sent to DOL 11/13/18; sent to Lt. Gov 12/14/18	10/17/18	
JU2018200746	Definition of residency #2	6/15/18	18	Emmett	voted out for public comment 6/15/18; cmts due 9/7/18; adopted 10/17/18; sent to DOL 11/13/18; sent to Lt. Gov 12/14/18	10/17/18	
	Protest by local government				Draft on 12/20/18 agenda		
JU2018200829	All licensees have handler permits	8/15/18	19	Jones	Voted out for cmt 8/15/18; cmts due 10/10/18; adopted 10/17/18; sent to DOL 11/13/18; sent to Lt. Gov 12/11/18	10/17/18	
	Effective date of ownership change	8/15/18	19	Jones	Voted out for cmt 8/15/18; cmts due 10/10/18; adopted 10/17/18; sent to DOL 11/13/18; sent to Lt. Gov 12/11/18	10/17/18	
JU2018200993	Handler permit renewal fee	8/15/18	19	Jones	Draft on 10/16 agenda; voted out for comment 10/17/18; comments due 12/12/18		
JU2018200990	Follow approved operating plan	8/15/18	19	Emmett	Draft on 10/16 agenda; voted out for comment 10/17/18; comments due 12/12/18		
JU2018200992	Inspection parameters	8/15/18	19	Emmett	Draft on 10/16 agenda; voted out for comment 10/17/18; comments due 12/12/18		
	Fine schedule	8/15/18	19	Jones	Sbcmte (Jones, Ankerfelt, Hoelscher) to work for December February mtg		
	University as licensee	10/17/18	19	Springer	Draft on 12/20/18 agenda		
	Denial of license application	10/17/18	19	Emmett			

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
	Fingerprints for individuals	10/17/18	19	Emmett	Draft on 12/20/18 agenda		
	Handler courses	10/17/18	19	Emmett			
	Umbrella Categories for Products	10/17/18	19	Emmett			
	License fees	10/17/18	19	Emmett	Draft on 12/20/18 agenda		



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

**Department of Commerce, Community,
and Economic Development**

ALCOHOL & MARIJUANA CONTROL OFFICE

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Marijuana Control Board

Delegation 2018-10-16a

Minor Forms Changes

Adopted (passed 5-0) on October 16, 2018

In accordance with AS 17.38.150, the Marijuana Control Board delegates to the Director the authority to make minor revisions to forms (that require board approval) to either provide clarity or to conform to adopted regulatory changes.

Mark Springer
Chair
Marijuana Control Board

Erika McConnell
Director
Alcohol & Marijuana Control Office



Alaska Marijuana Control Board

Form MJ-22a: Request to Retest

What is this form?

Use this form if you wish to request a retest of marijuana or marijuana product that failed a required test in accordance with 3 AAC 306.660(c). Use one form for each request. When complete, email to the director and amco.enforcement@alaska.gov. **Retesting is not permitted until the approved form is returned to you.**

Doing Business As:			
License Type (drop down):		Date:	
Licensee:		License Number:	

Harvest Batch or Product Name:	
Package Tag Number of Failed Test:	
Testing Facility:	
Reason for Test Failure:	
Explanation and evidence of why test result was wrong and retest is needed (attach any documentation):	

Signature of Director

Printed name of Director

Approved Disapproved

Date



Alaska Marijuana Control Board

Form MJ-22b: Request to Transfer Failed Test Material

What is this form?

Use this form if you wish to request that a batch of marijuana that failed a required test be used to make a carbon dioxide- or solvent-based extract in accordance with 3 AAC 306.660(b). Use one form for each request. When complete, email to the director and amco.enforcement@alaska.gov. **Transferring to a product manufacturer is not permitted until the approved form is returned to you.**

Doing Business As:			
License Type (drop down):		Date:	
Licensee:		License Number:	

Harvest Batch Name:	
Package Tag Number(s) of Product to be Transferred:	
Weight of Product to be Transferred:	
Package Tag Number of Failed Test:	
Testing Facility:	
Reason for Test Failure:	
License # and DBA of Product Manufacturer to Whom You Propose to Transfer:	

Signature of Director

Printed name of Director

Approved Disapproved

Date



Alaska Marijuana Control Board

Form MJ-25: Waste Disposal Notice

What is this form?

A waste disposal notice must be completed and submitted by a marijuana establishment licensee to the Alcohol and Marijuana Control Office (AMCO), at least three days before making any marijuana waste unusable and disposing of it in accordance with the approved methods in the current operating plan. The waste must also be recorded in the marijuana inventory tracking system, to include a record of the final destination of the unusable waste, as set forth under 3 AAC 306.740(c).

This form must be completed and emailed to amco.enforcement@alaska.gov before making any marijuana waste unusable and/or disposed of any marijuana waste.

Section 1 – Establishment Information

Enter information for the licensed business.

DBA:		License Number:	
License Type:			
Employee Completing Form:			

Section 2 – Waste Log

Waste Date Range	
TO:	FROM:

DATE CREATED	ROOM / PLANT / ITEM TAG #	TYPE OF WASTE (LEAF, TRIM, STEMS, PRODUCT ETC.)	WEIGHT (GRAMS)	NOTES (if additional notes, include second page)	DATE TO RENDER UNUSABLE/ DESTROY