THE STATE of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community, and Economic Development

ALCOHOL & MARIJUANA CONTROL OFFICE

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MEMORANDUM

TO:	Mark Springer, Chair, and Members of the Board	DATE:	December 20, 2018
FROM:	Erika McConnell, Director	RE:	Babylon Company LLC, #10322, Concentrate Manufacturing Facility

The licensee submitted an operating plan change for consideration at the October 2018 meeting that proposed to add vape cartridges as approved packaging for hash oil, along with an updated list of solvents and equipment used in their operations.

At that meeting, the board discussed whether vape cartridges were just packaging or if they were a new product. The board tabled the request to the December meeting to allow staff to do some research into how the board has handled this with other licensees.

Question: Can concentrate manufacturing facility licensees manufacture vape pens and cartridges?

Answer: There appears to be nothing in the regulations forbidding concentrate manufacturing facility licensees from manufacturing vape pens and cartridges, as long as the contents of the cartridges is marijuana concentrate and not a marijuana product. While the definitions could be a bit more clear, it seems that a marijuana concentrate is a substance produced by extracting or isolating components of the marijuana plant, while a marijuana product is a marijuana concentrate combined with some other non-marijuana ingredient(s).

3 AAC 306.515: "A licensed marijuana concentrate manufacturing facility has the privileges set out in 3 AAC 306.505, except that it may not (1) manufacture, refine, process, cook, package, label, or store any marijuana product other than marijuana concentrate;…"

3 AAC 306.990(b)(11): ""concentrate" or "marijuana concentrate" means resin, oil, wax, or any other substance produced by extracting or isolating cannabinoids, THC, or other components from a marijuana plant or from materials harvested from a marijuana plant;"

AS 17.38.900(15): ")"marijuana products" means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures;"

The board has approved vape pen/cartridge products for at least four concentrate manufacturing licensees:

- R.C. Tinderbox #10301 (on 11/15/17)
  Product: Vape Pen

- Midnight Sun #13424 (on 11/29/17)
  Product: Midnight Sun Vape Pen

- Frog Mountain #14020 (on 4/6/18)
  Product: Vape Cartridge

- High Tide Farms #12482 (on 4/6/18)
  Product: Rosin Vape Juice

Question: Has the board approved a marijuana concentrate that is packaged in multiple packaging options including vape pens/cartridges?

Answer: Yes

- 10865 Alaska Rime
  Product Name: Sap (approved 5/5/17)
  Screenshot from approved application:

> Sap will be packaged directly in glass containers and sold as is or in a vape pen, with or without a rechargeable battery. All vessels will be placed in a sealed mylar bag, described above, for retail sale.

Question: Has the board approved marijuana concentrate to be packaged in different types of packages (not just different sizes)?

Answer: Yes

- 10082 Einstein Labs
  Product Name: Shatter (approved 9/7/16)
  Screenshot from approved application:

> Packaging consists of non-toxic, opaque, black or white mylar with an optional clear back to show product. Bags range from 3" x 4.5" (1 gram, not to be repackaged) to 14 3/5" x 16 3/7" x 6" (1 pound wholesale) bags. Wholesale bags will increase in half (1/2) ounce increments up to one (1) pound. The designated amount of shatter will be packaged in a glass/plastic container or parchment paper and then placed in the bag. Syringe packaging will hold .5g-1.5g per vessel and be placed in a 2.5" x 9" mylar bag (black or white, optional clear back) not to be repackaged by retail stores. Total THC per product will range 40-99%.

Product Names: The Klear (approved 9/7/16), Sugar Silk (approved 9/7/16), Cannabis Oil (approved 9/7/16), Rosin (approved 9/7/16)
All approved with "glass/plastic container" option and "syringe packaging" similar to Shatter

- 15594 Cold Creek
  Product Name: Distillate (approved 6/15/18)
  Screenshot from approved application:

Retail only. Packaging for the Distillate will consist of the following.
1. 0.5g of distillate in 7ml glass jar in clear/black Mylar outer bag.
2. 1.0g of distillate in 7ml glass jar in clear/black Mylar outer bag.
3. 0.5g of distillate in 1ml glass syringe in clear/black Mylar outer bag.
4. 1.0g of distillate in 1ml glass syringe in clear/black Mylar outer bag.

Question: Do any licensees have a separate vape pen/cartridge product?

Answer: Yes

- 10082 Einstein Labs
  Product Name: E-Blunt Vape Pen & Oil (approved 9/7/16)

- 15594 Cold Creek Extracts
  Product Name: Vape Pen (approved 6/15/18)

In conclusion, it appears the board has approved both concentrates packaged in multiple ways including as vape pens, and vape pens as a separate product.

As long as the substance being loaded into the cartridge/vape pen does not differ from the approved substance that is being packaged in some other way, there does not seem to be a reason to require a separate product approval.

The licensee has submitted an MJ-16 for a new product approval, along with the existing MJ-15 that was tabled by the board in October, so that whichever way the board decides to move forward, the licensee could have the appropriate form reviewed and acted upon by the board at this meeting.