



## MEMORANDUM

TO: Marijuana Control Board  
FROM: Erika McConnell, Director

DATE: November 13, 2019  
RE: Director's Report

### OPERATIONS

Jed Smith, Local Government Specialist, left AMCO at the end of September. The position description needs to be revised before filling the position.

### ISSUES

#### Quality Control Sampling

The board adopted a regulations change in late 2017 that allows a cultivation facility (3 AAC 306.460(d) and a product manufacturing facility (3 AAC 306.557) to provide samples to their employees for quality control with certain limitations. It came to my attention that a product manufacturing licensee transferred their product to a different product manufacturing licensee who distributed those products to their employees as quality control samples. The board discussed the issue and requested it be on this agenda for further discussion.

If the board determines to open a regulations project to further clarify this issue, I recommend considering the following changes along with the clarification:

- Samples may not be distributed to employees for quality control unless and until they have passed required testing.
- If the board determines that a licensee may provide product to a different licensee to give it the second licensee's employees for quality control testing, then 3 AAC 306.460(d)(4) and 3 AAC 306.557(4) should be amended to remove "licensee or", so that it states, "no sample provided under this subsection is sold or given to another consumer."
- A time limit for the return of the quality control form should be set. If the purpose is for a licensee to determine whether a product is reasonable to take to market, the employee testing and feedback must happen promptly.

#### Licensee as Distributor

It came to my attention that Product Manufacturing Licensee A transferred marijuana products manufactured at Licensee A's facility to Product Manufacturing Licensee B. Licensee B then repackaged Licensee A's products and transferred them to various retail facilities. The board requested specifics at this meeting.

On July 16, 2019, Herban Extracts #14432, a product manufacturing facility, made 166.8 grams of “Skywalker OG” out of 1,300 grams of Skywalker OG trim from two different packages, as a production lot with package tag \*002742. The concentrate passed testing on July 20, 2019.

On July 24, 2019, Herban Extracts used 110.8 grams from package \*002742 to package 100 grams of “0.5 gram Skywalker OG Vape Cartridge” in package \*003012. (Unclear what happened to 10.8 grams—looking into that.) Herban Extracts has four different vape cartridges approved—it is not clear in Metrc which approved product was made.

Package \*003012 was transferred from Herban Extracts #14432 to Lady Gray Gourmet Medibles #12254, another product manufacturing facility, on July 26, 2019. Between July 27 and August 9, Lady Gray Gourmet Medibles created six different packages in order to send between 5 grams and 20 grams of “0.5 gram Skywalker OG Vape Cartridge Herban Ex” (renamed by Lady Gray) to various retail stores.

Testing

Chair Springer asked me to provide information about what proficiency testing is available. I am aware of two companies that offer proficiency testing for marijuana: Emerald Scientific and Phenova. Information about what tests they offer, taken from their websites, is attached to this report.

Testing Statistics from program inception to 10/25/19:

<b>Shiga-Toxin Producing E.coli (STEC) Bacteria</b>	<b>Total # of Tests</b>	<b># of Failed Tests</b>	<b>% of Failed Tests</b>
Total E. coli Tests	17,504	31	0.18
Bud/Flower	12,385	16	0.13
Concentrate	1,118	0	0.00
Edible	1,173	0	0.00
Immature Bud	97	0	0.00
Immature Plants	1	0	0.00
Leaf/Trim	440	0	0.00
Non-Edible	24	7	29.17
Pollen	6	1	16.67
Sample Bud/Flower	2,201	7	0.32
Sample Leaf/Trim	45	0	0.00
Seeds	9	0	0.00
Wet Whole Plant	4	0	0.00

<b>Salmonella Species Bacteria</b>	<b>Total # of Tests</b>	<b># of Failed Tests</b>	<b>% of Failed Tests</b>
Total Salmonella Tests	17,500	2	0.01
Bud/Flower	12,383	2	0.02
Concentrate	1,118	0	0.00
Edible	1,173	0	0.00

<b>Salmonella Species Bacteria</b>	<b>Total # of Tests</b>	<b># of Failed Tests</b>	<b>% of Failed Tests</b>
Immature Bud	97	0	0.00
Immature Plants	1	0	0.00
Leaf/Trim	440	0	0.00
Non-Edible	23	0	0.00
Pollen	6	0	0.00
Sample Bud/Flower	2,200	0	0.00
Sample Leaf/Trim	45	0	0.00
Seeds	9	0	0.00
Wet Whole Plant	4	0	0.00

<b>Microbials (Aspergillus fumigatus, Aspergillus flavus, Aspergillus niger fungus)</b>	<b>Total # of Tests</b>	<b># of Failed Tests</b>	<b>% of Failed Tests</b>
Total Microbials Tests	22,578	505	2.24
Bud/Flower	16,496	402	2.44
Concentrate	1,135	1	0.09
Edible	1,261	3	0.24
Immature Bud	110	1	0.91
Immature Plants	1	0	0.00
Leaf/Trim	464	12	2.59
Non-Edible	24	0	0.00
Pollen	7	0	0.00
Sample Bud/Flower	3,006	85	2.83
Sample Leaf/Trim	61	0	0.00
Seeds	8	0	0.00
Wet Whole Plant	4	1	25.00

<b>Molds/Mildew/Filth</b>	<b>Total # of Tests</b>	<b># of Failed Tests</b>	<b>% of Failed Tests</b>
Total Molds/Mildew/Filth Tests	23,668	214	0.90
Bud/Flower	12,472	156	1.25
Concentrate	6,869	0	0.00
Edible	1,232	2	0.03
Immature Bud	97	1	1.03
Immature Plants	1	0	0.00
Leaf/Trim	625	5	0.80
Non-Edible	36	1	2.78
Pollen	6	0	0.00
Sample Bud/Flower	2,236	47	2.10
Sample Leaf/Trim	80	1	1.25
Seeds	9	1	11.11
Wet Whole Plant	4	0	0.00

<b>THC*</b>	Total # of Tests	# of Failed Tests	% of Failed Tests
Total THC Tests of Edibles	1,493	108	7.234%

\* THC tests – pass/fail tests only for edibles. Failed test indicates either THC content not within 20% of target (3 AAC 306.645(b)(1)(B)(iii), or lack of homogeneity required by 3 AAC 306.560(2)

**REGULATIONS**

Attached to this report is a regulations projects status spreadsheet.

**NEXT MEETING**

The next MC Board meeting is scheduled for January 23-24, 2020, in Juneau. Applications must be complete and any other documents for the board must be submitted to our office by January 3, 2020, to be on the agenda.

**STATISTICS**

*Retail Sales*

<i>Month</i>	<i>Total Sales</i>		
August	\$18,372,173	2016 Total Sales	\$1,689,329
September	\$15,774,607	2017 Total Sales	\$57,562,728
October	\$18,068,521	2018 Total Sales	\$130,475,707

Total retail sales from program inception to 10/31/19: \$338,232,311

*Taxes Assessed From Licensees Who Filed Returns*

<i>Month</i>	<i>Taxes Filed</i>		
June	\$1,779,583	2016 Total Taxes	\$232,696
July	\$1,900,814	2017 Total Taxes	\$6,075,069
August	\$1,994,197	2018 Total Taxes	\$15,697,268

Total taxes assessed from program inception to 8/31/19: \$35,922,675

## Proficiency Testing Information

Emerald Scientific—tests available in Fall of 2019; <https://emeraldscientific.com/proficiency-tests/>

- **6 part Potency in Solution** – cannabinoid analysis. Components: Acetonitrile matrix. (1 mL sample, 10 – 1000µg/mL)
- **5 part Potency in Hemp Oil** – cannabinoid analysis. Components: Hemp Oil matrix. (1 mL sample, 10 – 1000µg/g)
- **5 part Potency in Olive Oil** – cannabinoid analysis. Components: Olive Oil matrix. (1 mL sample, 10 – 1000µg/g)
- **5 part Potency in Hemp Bud** – cannabinoid analysis. Components: Hemp Bud matrix. (1g sample, 10 – 80,000µg/g)
- **5 part Potency in Gummy** – cannabinoid analysis. Components: Gummy matrix. (1 piece sample, 10 – 1,000µg/g)
- **5 part Potency in Beverage** – cannabinoid analysis. Components: Infused water matrix. (1 mL sample, 10 – 1000µg/mL)
- **22 part Residual Solvents in Hemp Oil**  
Solvent analysis. Components: Hemp oil matrix. At least 60% will be present. (2.0 mL sample, 10 – 1000µg/g)
- **22 part Residual Solvents in Olive Oil**  
Solvent analysis. Components: Olive oil matrix. At least 60% will be present. (2.0 mL sample, 10 – 1000µg/g)
- **4 part Heavy Metals in Hemp Oil**  
Heavy Metals analysis. Components: Hemp oil matrix. (0.6g sample, varied µg/g)
- **5 part Heavy Metals in Hemp Bud**  
Heavy Metals analysis. Components: Hemp bud matrix. (1g sample, varied µg/g)
- **10 part Terpenes in Hemp Oil**  
Terpene analysis. Components: Hemp oil matrix. (1 mL sample, 10 – 1000µg/g).
- **10 part Terpenes in Olive Oil**  
Terpene analysis. Components: Olive oil matrix. (1 mL sample, 10 – 1000µg/g).
- **Water Activity**  
Moisture analysis. Components: Water matrix. (5mL sample, 0.4 – 1.0aw)
- **Pesticide Screening in Hemp**  
Pesticide analysis. (Available in 0.5, 1 or 1.5g sample sizes, varied µg/g)
- **Microbial Panel 1 in Hemp**  
(1g hemp sample)
- **Microbial Panel 2 – Salmonella in Hemp**  
(1g hemp sample)
- **Microbial Panel 3 – STEC in Hemp**  
(1g hemp sample)
- **Microbial Panel 4 – Aspergillus Molds in Hemp**  
(1g hemp sample)
- **Microbial Panel 5 – Salmonella in Chocolate**  
(1 piece samples)

- **Microbial Panel 6 – STEC in Chocolate**  
(1 piece samples)
- **Microbial Panel 7 – Salmonella in Hemp Oil**  
(1.2g hemp oil sample)
- **Microbial Panel 8 – STEC in Hemp Oil**  
(1.2g hemp oil sample)
- **Microbial Panel 9 – Aspergillus Molds in Hemp Oil**  
(1.2g hemp oil sample)
- **Mycotoxins in Hemp**  
(1g hemp sample)
- **Foreign Materials in Hemp**  
(500mg in hemp)

Phenova ([https://www.phenova.com/Home/cannabis\\_1](https://www.phenova.com/Home/cannabis_1))

Phenova Cannabis and Hemp PT standards are available for:

- Potency/THC Content
- Pesticide Residues
- Residual Solvents
- Water/Moisture Content
- Heavy Metals
- Mycotoxins
- Terpenes

**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]				Closed due to inaction 2/26/19	N/A	N/A
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	Closed due to inaction 2/26/19		
JU2016200609	Participation of outside entities – residency requirements (BE handout)	6/9/16 pg 22	16	Emmett	Closed due to inaction 2/26/19		
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		Signed by Lt Gov on 3/12/19	12/20/18	4/11/19
JU2018200370	Plant count for new cultivators	4/5/17	17		Signed by Lt Gov on 9/20/18	6/15/18	10/20/18
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

**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
	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	adoption vote 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	adoption vote 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		
JU2019200634	Overlapping premises	1/25/18	18	Jones	Draft on July 2019 agenda; amended and put out for comment 7/12/19; comments due 9/5/19; Sept 2019--changes made, out for comment; comments due 10/30/19		
JU2018200720	Allow out-of-state investment in testing labs: Ownership of Marijuana Testing Facilities	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;	5/1/19	



**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
					out for comment 2/20/19; comments due 4/12/19; adopted 5/1/19; sent to DOL 5/23/19; Sept 2019 language revision requested by DOL, board rescinds adoption, changes language to DOL's, put out for public comment; cmts due 10/30/19		
JU2018200819	License conversion	1/25/18	18	Jones	sent to Lt Gov 12/13/18; signed by Lt Gov 1/22/19	10/17/18	2/21/19
JU2018200818	License expiration for renewal	6/15/18	18	Jones	sent to Lt Gov 12/11/18; signed by Lt Gov 1/22/19	10/17/18	2/21/19
	Ownership change when licensees don't change	1/25/18	18	Jones	sent to Lt Gov 12/11/18; signed by Lt Gov 1/22/19	10/17/18	2/21/19
	Wholesale concentrates to retail	6/15/18	18	Emmett	sent to Lt Gov 12/11/18; signed by Lt Gov 1/22/19	10/17/18	2/21/19
JU2018200994	Sample jars	8/15/18	19	Emmett	Signed by Lt Gov 4/9/19	2/20/19	5/9/19
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)  Name revised to THC CBD definitions		18		Parts of project referred to testing cmte 8/15/18; voted out for comment 10/17/18; comments due 12/12/18; on February agenda; small portion adopted 2/20/19; remainder sent back to staff/working group for revisions; to DOL @3/18/19; to Lt Gov 4/1/19; Signed by Lt Gov 4/9/19	2/20/19	5/9/19
JU2019200398	Tracking and Grading (TWG Part 2)	6/15/19	18	Emmett	Part of regs proposal sent back for more work on 2/20/19; put out for comment 5/1/19; cmts due 6/19/19; amended and adopted 7/11/19; to DOL mid-August	7/12/19	
JU2018200820	Expiration of public notice	6/15/18	18	Emmett	sent to Lt Gov 12/14/18; signed by Lt Gov 1/22/19	10/17/18	2/21/19
JU2018200746	Definition of residency #2	6/15/18	18	Emmett	sent to Lt Gov 12/14/18; signed by Lt Gov 1/22/19	10/17/18	2/21/19
JU2019200010	Protest by local government	12/20/18	19		Signed by Lt Gov 4/9/19	2/20/19	5/9/19
JU2018200829	All licensees have handler permits	8/15/18	19	Jones	sent to Lt Gov 12/11/18; signed by Lt Gov 1/22/19	10/17/18	2/21/19
	Effective date of ownership change	8/15/18	19	Jones	sent to Lt Gov 12/11/18; signed by Lt Gov 1/22/19	10/17/18	2/21/19
JU2018200993	Handler permit renewal fee	8/15/18	19	Jones	Signed by Lt Gov 4/9/19	2/20/19	5/9/19
JU2018200990	Follow approved operating plan	8/15/18	19	Emmett	Signed by Lt Gov 4/9/19	2/20/19	5/9/19

**MCB REGULATIONS PROJECTS**

<b>DOL Project Number</b>	<b>Topic</b>	<b>Date Opened by MCB</b>	<b>FY</b>	<b>Board mbr point person(s)</b>	<b>Current Status/Notes</b>	<b>Date Adopted by MCB</b>	<b>Effective Date</b>
JU2018200992	Inspection parameters	8/15/18	19	Emmett/ Miller	Draft on 10/16 agenda; voted out for comment 10/17/18; comments due 12/12/18; on 12/21, tabled to February meeting; sent back to staff for more work 2/20/19		
	Fine schedule	8/15/18	19	Jones	Sbcmte (Jones, Ankerfelt, Hoelscher) to work for <del>December</del> February mtg; out for comment 2/20/19; comments due 4/12/19; tabled 5/1/19; out for comment for 45 days on 7/12/19; cmts due 9/20/19		
JU2019200011	University as licensee	10/17/18	19	Springer	Draft on 12/20/18 agenda; voted out for comment 12/20/18; comments due 2/8; sent back to staff for more work 2/20/19		
JU2019200009	Fingerprints for individuals	10/17/18	19	Emmett	Signed by Lt Gov 4/9/19	2/20/19	5/9/19
JU2019200012	License fees	10/17/18	19	Emmett	Signed by Lt Gov 4/1/19	2/20/19	5/1/19
JU2019200194	Handler courses	10/17/18	19	Emmett	Signed by Lt Gov 7/22/19	5/1/19	8/21/19
JU2019200191	Denial of license application	10/17/18	19	Emmett	Signed by Lt Gov 7/22/19	5/1/19	8/21/19
JU2019200742	Umbrella Categories for Products	10/17/18	19	Emmett	Draft on September 2019 agenda; put out for comment 9/23/19; cmts due 11/15/19		
JU2019200399	Onsite Consumption Cleanup	2/20/19	19	Emmett	put out for comment 5/1/19; cmts due 6/19/19; returned to staff for more work 7/12/19; revisions on November agenda		
	Packaging and Labeling	2/20/19	19	Emmett			
JU2019200637	Revocation of Handler permit revisions	2/20/19	19	Springer	Initial draft on July 2019 agenda; out for comment 7/12/19; comments due 9/5/19; on September 2019 agenda; adopted; to DOL 10/1/19; back to board 11/13/19 for minor corrections	9/12/19	
	Transportation	2/20/19	19	Emmett			
	Retesting	2/20/19	19	Emmett	Initial draft on November 2019 agenda		
	Advertising	2/20/19	19	Miller	AAG awaiting "wish list" of topics for scoping notice		
JU2019200396	Testing Oversight		19		put out for comment 5/1/19; cmts due 6/19/19; DEC to amend compliance document, then out for comment 7/12/19; comments due 9/5/19; on September 2019 agenda; out for comment with 9/30/19 amended DEC document, cmts.due 11/2/19		
	Infants on Premises	5/1/19	19		Draft on September 2019 agenda; remove amendment to 306.325 and put out for comment, cmts. due 10/30/19		

**MCB REGULATIONS PROJECTS**

<b>DOL Project Number</b>	<b>Topic</b>	<b>Date Opened by MCB</b>	<b>FY</b>	<b>Board mbr point person(s)</b>	<b>Current Status/Notes</b>	<b>Date Adopted by MCB</b>	<b>Effective Date</b>
JU2019200736	"Application" and renewal date	7/10/19	20	Jones	Draft on September 2019 agenda; put out for comment; cmts due 10/30/19		
	Separation distances and definition of "recreation or youth center"	7/10/19	20	Jones/Miller			
	Sales limits at 306.355	7/10/19	20		Initial draft on November 2019 agenda		