



MEMORANDUM

TO: Marijuana Control Board DATE: November 13, 2019
FROM: Erika McConnell, Director RE: Regulations Project – Overlapping
Premises

The board initiated this project in January of 2018, to clarify what type of space could be shared by multiple licenses.

The draft proposes the following:

1. Repeals 3 AAC 306.405(b). This section authorizes a cultivation facility licensee to apply for a product manufacturing or retail license; however a comparable section does not exist in either the product manufacturing section or the retail section, and the deletion of this section would have no effect. A license holder of one type may continue to apply for and hold a license of another type, except for the restrictions regarding testing facilities, which are unchanged.
2. Amends 3 AAC 306.405(c) to remove references to privileges of another license type and include a prohibition from 3 AAC 306.450 (proposed to be deleted). Again, this language is not consistent across license types and is unnecessary. The deletions will have no effect on a licensee's privileges or prohibitions.
3. Repeals 3 AAC 306.450. This prohibition is already stated at 3 AAC 306.405(c)(4).
4. Amends 3 AAC 306.705(a) to add the board's policy regarding contiguous licensed premises into regulation, with an exception carved out for certain overlapping areas, as described in the following subsection.
5. Adds a new subsection 3 AAC 306.705(d) to allow a licensee that holds more than one license either in the same building or with abutting licensed premises to share office space, an employee breakroom, bathrooms, or storage areas for non-marijuana items. These shared areas may not be restricted access areas.
6. Amends 3 AAC 306.710(a) to clarify that any area through which marijuana or marijuana product is within a licensed premises shall be a restricted access area.
7. Amends the definition of "licensed premises" at 3 AAC 306.990(b)(23) to include "designated outdoor areas."

The proposed regulations change was put out for public comment for 40 days closing on October 30. Five comments were received and are attached.

Options for the board:

- Vote to adopt as written
- Amend; if amendment is significant, put out for public comment
- Send back to staff for revisions
- Close the project without action



(Words in **boldface and underlined** indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted.)

3 AAC 306.405(b) is repealed.

3 AAC 306.405(c) is amended to read:

(c) A licensed standard marijuana cultivation facility may not

(1) sell, distribute, or transfer marijuana or a marijuana product to a consumer, with or without compensation;

(2) allow any person, including a licensee, employee, or agent, to consume marijuana or a marijuana product on the licensed premises or within 20 feet of the exterior of any building or outdoor cultivation facility on the licensed premises;

(3) treat or otherwise adulterate marijuana with any organic or nonorganic chemical or other compound to alter the color, appearance, weight, or odor of the marijuana;

(4) [EXCEPT AS PERMITTED UNDER A MARIJUANA PRODUCT MANUFACTURING FACILITY LICENSE,] extract, **produce, or possess** marijuana concentrate [, USING ANY PROCESS DESCRIBED IN 3 AAC 306.555,] at the licensed premises;

(5) sell marijuana that is not packaged and labeled in compliance with 3 AAC 306.470 and 3 AAC 306.475;

(6) introduce marijuana or a marijuana product, including plants and seeds, onto the licensed premises from any outside source after the initial preliminary inspection, except

(A) as acquired from another licensed marijuana cultivation facility and accounted for in each marijuana cultivation facility's marijuana inventory tracking system as required under 3 AAC 306.730; or

(B) as provided under this section.

3 AAC 306.450 is repealed. (Eff 2/21/2016, Register 217, am __/__/__, Register ____)

Authority: AS 17.38.010 AS 174.38.150 AS 17.38.200
AS 17.38.070 AS 17.38.190 AS 17.38.900
AS 17.38.121

3 AAC 306.705(a) is amended to read:

(a) A marijuana establishment license will be issued for specific licensed premises **at a single location. Licensed premises shall be contiguous, except that the board may approve a noncontiguous portion of a licensed premises that is not a restricted access area under 3 AAC 306.710. Licensed premises shall not overlap except as allowed in subsection (d).**

Specific licensed premises must constitute a place clearly designated in a license application and described by a line drawing submitted with the license application. The licensed premises must

(1) have adequate space for its approved operations, including growing, manufacturing, processing, packaging, or storing marijuana or marijuana products; and

(2) be located and constructed to facilitate cleaning, maintenance, and proper operation.

3 AAC 306.705 is amended by adding a new subsection to read:

(d) Two or more licenses within the same building or with abutting premises may, with board approval, designate the following areas on the licensed premises of each license, to be used in common by all licenses: office, employee break room, bathrooms, non-marijuana storage areas. These areas may not be restricted access areas under 3 AAC 306.710, and no marijuana or a marijuana product may be brought into any area designated as the licensed premises for more than one license.

3 AAC 306.710(a) is amended to read:

(a) A marijuana establishment shall restrict access to any part of the licensed premises where marijuana or a marijuana product is grown, processed, tested, stored, or stocked, **or through which marijuana or a marijuana product is moved.**

3 AAC 306.990(b)(23) is amended to read

(23) "licensed premises" means any or all designated portions of a building or structure, or rooms or enclosures in the building or structure, **or designated outdoor areas,** at the specific address for which a marijuana establishment license is issued, and used, controlled, or operated by the marijuana establishment to carry out the business for which it is licensed;



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October 24, 2019

MCB Board

Sent Via Electronic Mail

Re: Overlapping Premises

Dear Honorable MCB Members:

Thank you for considering my public comment for the regulation project that discusses overlapping premises for marijuana licensees. This issue keeps reappearing for licensees and is causing major injuries to the efficiency of marijuana businesses – the alleged prohibition of overlapping licensed premises. The proposed regulation should not be adopted as written. Essentially, the proposed regulation is an attempt by the Director to codify what staff has attempted to impose on licenses without written regulatory support. The draft regulation simply takes how AMCO believes the regulation should be imposed and re-writes the existing regulation to mirror the current AMCO staff belief as to how the regulations should read. It's not fixing a problem, it's further restricting the ability for these companies to act like regular businesses and more importantly, the draft regulation *undermines* public health and safety instead of promoting and protecting public health and safety.

From the beginning of licensing, the Marijuana Control Board has repeatedly approved diagrams that show co-located secured storage when there are co-located and co-owned licensed types. This has been standard industry practice and it is not prohibited in the regulations. AMCO staff recently began taking issue with this. For example, if a licensee took their original approved diagrams and made changes (not related to shared spaces) and then submitted it as an mj14 for review and approval, the staff would come back and say "you cannot have shared storage". To which, the licensee responds, "but, that was approved that way, I didn't change that part – the MCB already approved it." And staff retorts, "well it doesn't state you can do this in the regulations, so that means you cannot."

The propose regulation, instead of addressing the industry's legitimate concern that it makes sense for consumer protection and safety of their employees, to secure product in the most secure place in their facility, it just codifies the position that AMCO staff has consistently been taking. The

draft removes language from 3AAC 306.405(c)(4) – the language removed is the language that shows the original intent of the MCB to allow for some overlapping of licensed premises, furthering the codification of staff's position – and reducing the ability for overlapping of premises:

(4) [EXCEPT AS PERMITTED UNDER A MARIJUANA PRODUCT MANUFACTURING FACILITY LICENSE,] extract, **produce, or possess** marijuana concentrate [, USING ANY PROCESS DESCRIBED IN 3 AAC 306.555,] at the licensed premises;

It's my understanding the board instructed staff to create a draft to address the concerns that the industry is not being able to utilize their facilities in the most secure manner – I do not recall the MCB requesting the staff to further the problem and further reduce the ability of licensees to utilize their facility in a manner that increases the risk to public health and safety.

Then the draft goes on to FURTHER restrict the ability for licensees to utilize their facility space:

3 AAC 306.710(a) is amended to read: (a) A marijuana establishment shall restrict access to any part of the licensed premises where marijuana or a marijuana product is grown, processed, tested, stored, or stocked, **or through which marijuana or a marijuana product is moved.**

Adding yet another restriction that AMCO staff has been telling licensees already existed under the regulation, and peddling that additional restriction (that was NOT included in the regulations before) to this Board despite the request to open up a project that would further the ability to have shared licenses premises space, this proposed changed undermines that ability.

Additionally, the addition of the bold and underlined language has more untended consequences – how does one move product out of the facility? Or out of a retail store? This addition of language does not make sense – it would render retail sales floors restricted access – loading docks restricted access – vehicles... the nonsensical list could go on and on..

This type of morphing what the Board requested to what the staff proposes is an alarming trend. The Board already approved and codified over-lapping premises in the regulations:

Currently, 306.405 (b) states,

A licensed standard marijuana cultivation facility may also apply for a marijuana product manufacturing facility license and a retail marijuana store license. A standard marijuana cultivation facility that obtains a marijuana product manufacturing facility license or a retail marijuana store license shall

(1) conduct any product manufacturing or retail marijuana store operation in

a room completely separated from the marijuana cultivation facility by a secure door when co- located; and

(2) comply with each provision of this chapter that applies to any other type of marijuana establishment license that the standard marijuana cultivation facility licensee obtains.

Nothing in this regulation section prohibits the over lapping of premises or prohibits shared storage. Notably – **the staff's proposed draft that you are currently considering proposes eliminating this entire section– is this what the Board intended to do?**

The staff has previously opined that overlapping premises are not allowed in the regulations – but it's clear, the staff is incorrect and is now attempting to remove every part of the regulations that infer or provide for any form of overlapping. In addition to the regulation provisions above that staff is attempting to delete and remove, the proposed draft also proposes deleting the following provision of the current regulations:

3 AAC 306.450. Production of marijuana concentrate prohibited.
A marijuana cultivation facility may not produce or possess marijuana concentrate that was extracted using any process described in 3 AAC 306.555 **on the marijuana cultivation facility's licensed premises unless the marijuana cultivation facility also has a marijuana product manufacturing facility license.** Any extraction or production of marijuana concentrate on the premises of a licensed marijuana cultivation facility must (1) be in a separate room that (A) is physically separated by a secure door from any cultivation area; and (B) has a sign that clearly identifies the room as a marijuana concentrate production area, and warns unauthorized persons to stay out; and (2) comply with all applicable provisions of 3 AAC 306.500 - 3 AAC 306.570.

CLEARLY – the highlighted and bolded section allows for overlapping premises, and again, staff is proposing to REMOVE all of the language above. This draft regulation project is the exact opposite of what the industry needs, and it undermines protecting public (and employee) health and safety.

In the regulations as they are currently codified, there is not one mention of any prohibition of overlapping premises. The word overlap is not even mentioned. Somehow, staff *inferred* this alleged prohibition despite the repeated citations throughout the regulations that specifically provide for overlapping of premises. If staff doesn't like the regulations as written, that doesn't mean its allowed to creatively and conveniently interpret the regulations in a manipulated manner to reach a conclusion that meshes with how staff "thinks it ought to be". If staff thinks the regulations ought to be different, they should write a public comment in regard to what they believe it should be. Not cunningly draft regulation projects that simply craft their own desires and conclusions.

Under the Alaskan marijuana regulation scheme, licensees are allowed to hold all types of licenses at one time (with the exception of marijuana testing facilities). As you can imagine in any business, efficient and effective use of one's available business space is of critical importance to these business owners.

Let's take a restaurant for example – a restaurant makes the food in the back of the house and then sells it to consumers from the front of the house. Waiters go in and out of the back of the house with ease, and back to the front of the house. Supplies used by the “front of the house” staff are stored in the “back of the house” and easily accessed without barriers at all times. The cash is usually stored in a safe in the manager's office, along with the timecards, table closeouts and the calculations for how much credit card tips the server received. End of shift cash outs for servers also occurs in the back of the house for most wait staff.

Can you imagine an efficient restaurant business model where the front of the house was prohibited from storing any of the supplies it needs to service the consumers?

Can you imagine if waiters were prohibited from walking into the back of the house to grab your order and bring it to you?

Can you imagine how much business frustration would occur if the typical back/front of the house in restaurants was disrupted?

Now, let's apply the current regulation to marijuana licensees – and let's imagine a single company owns a retail and small cultivation. In the retail area (front of the house) you have budtenders, servicing the consumers and filling their orders. In the cultivation (back of the house), you have the cultivation team hard at work producing the product that fills the orders. The owner of this company looks at his/her space available, the number of employees needed to adequately staff the front and back of the house, and the safety of the company's inventory and staff.

The owner may determine that some of the front of the house staff can actually perform some work in the back of the house. The owner may determine that the secure safe product storage in the cultivation area is a much more secure location for retail inventory (and safer for employees) than out front in a glass locking cabinet. The owner may also determine that the front of the house simply doesn't have enough space to securely and properly store all the retail store's inventory. If both the retail license and cultivation license are owned by the same entity/person, all employees are employees of this single entity/person, and both licenses are housed in the same building/unit, what would be the government's rationale or prerogative to tell this business owner the following:

- You're required to store your retail inventory out front in the retail licensed space only;
- You're required to store your retail inventory in a manner that makes it more enticing to be robbed as the robber could get all of the retail's inventory just by breaking into the retail store; and
- You're required to use your business space in a manner that is inefficient, disrupts business flow, and doesn't make good business or security sense.

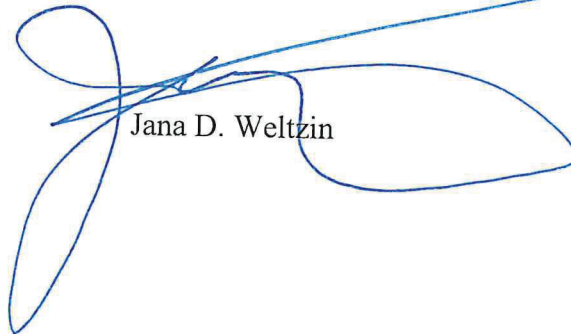
That is the effect of the proposed draft language – in the staff memo to the board regarding Alaskan Leaf denial of MJ14, dated September 11, 2019, which my office appealed to this body, the memo states that the regulations “contemplate” that marijuana/product is stored on the licensed premises. What does contemplate mean in this context? The regulations do not contemplate, they don’t think or have an opinion, the regulations are words – and the WORDS of the regulations do not say you cannot have shared secured storage. Period. No contemplation or meditation needed – that is not how to interpret the law. The law is the plain meaning of the words.

A marijuana company that owns more than one license under one roof should be allowed to utilize the business space as it is secured to the highest and most efficient use possible. We should amend regulatory provisions to reduce business disruptions as opposed to continue to impose them when common sense tells us this just doesn’t make any sense, and there’s no real rationale basis for restricting a business use of the space that is paid for and invested in. We understand that if there are multiple licenses owned by multiple companies or persons, then there are risks that need to be addressed – but we should carve out an exception for use of space and allow for overlapping licensing use when licenses are co-owned and co-located.

Therefore, I would propose the board not adopt this regulation and either really dig into what the current regulations provide for OR create a working group with licensees to address any staff concerns and industry needs in one working body and come up with a commonsense/practical use of business space that further protection of our employees, the public, and strengthens protections for public health and safety.

We know this is a volunteer board that gives up countless hours with your family, friends and professional obligations to ensure that our industry is sustainable, and that Alaskans are protected. We very much appreciate your contributions. Thank you for your continued hard work, dedication and commitment to the success of this regulated industry.

Respectfully submitted for your consideration,



Jana D. Weltzin



October 25, 2019

Via email

Subject: Public Comment on 3 AAC 306, dealing with overlapping licensed premises

Dear Honorable Marijuana Control Board Members,

Thank you for the opportunity to comment on the proposed regulations.

The proposed regulation should **not be adopted as written**. This proposed regulation change is described through a misleading public notice as giving licensees more liberty with their overlapping premises. However, the proposed regulation change achieves the opposite.

The proposed regulation removes all wording that currently grants licensees the ability to have shared spaces between licenses located at a single location. The Marijuana Control Board (MCB) has already set precedent upholding these sections of the regulations on multiple occasions.

Moreover, this regulation project appears to be an attempt by the leadership of the Alcohol and Marijuana Control Office (AMCO) to take its preferred interpretation of the regulations and codify it into law. The interpretation by AMCO is flawed and incorrect.

AMCO is misusing the regulation project process as a vehicle to advance staff's interpretations of the regulations. As an industry association, this is concerning and needs to be addressed by the MCB.

All regulation changes should provide at least one of the following benefits:

- Increase public health and safety

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- Increase business efficiencies
- Increase enforcement efficiencies

This regulation change does none of these; in fact the proposed draft regulation undermines those goals.

The current regulations clearly illustrate that overlapping premises are allowed. The proposed draft aims to delete these sections by saying that they are redundant in other sections. This is false. The redundant portion is also proposed to be removed or amended.

The regulations currently provide for overlapping premises in the following sections: 3 AAC 306.405(c)(4); 3 AAC 306.405(b); and 3 AAC 306.450. Staff's proposed draft regulation either deletes or modifies all of these noted sections in a manner that restricts or prohibits overlapping premises.

Currently, 306.405 (b) states:

A licensed standard marijuana cultivation facility may also apply for a marijuana product manufacturing facility license and a retail marijuana store license. A standard marijuana cultivation facility that obtains a marijuana product manufacturing facility license or a retail marijuana store license shall

- 1) *conduct any product manufacturing or retail marijuana store operation in a room completely separated from the marijuana cultivation facility by a secure door when co-located; and*
- 2) *comply with each provision of this chapter that applies to any other type of marijuana establishment license that the standard marijuana cultivation facility licensee obtains.*

The proposal that you are currently considering would eliminate this entire section.

3 AAC 306.405 (b) clearly contemplates overlapping premises of cultivation, retail, and manufacturing as long as the product manufacturing or retail store operation is separated from the cultivation facility by a secure door.

Of notable concern, the public notice for this regulation change states, "3 AAC 306.450 is proposed to be repealed. The prohibition is already stated in 3 AAC 306.405(c)(4)."

This is false; there is other information in this section that shows that the regulations were intended to allow overlapping premises. 3 AAC 306.450 specifically addresses what needs to be done in order to maintain an overlapping premise and remain in compliance.

Further, the regulation (3AAC 306.405(C)(4)) that is being claimed to contain this information is proposed to be heavily amended. Misstating the intent of a regulation project in the public notice is a fatal flaw and on that point alone this Board should vote this regulation project down.

The proposed draft proposes deleting, in its entirety, the following provision of the current regulations:

3 AAC 306.450. Production of marijuana concentrate prohibited.

*A marijuana cultivation facility may not produce or possess marijuana concentrate that was extracted using any process described in 3 AAC 306.555 **on the marijuana cultivation facility's licensed premises unless the marijuana cultivation facility also has a marijuana product manufacturing facility license.** Any extraction or production of marijuana concentrate on the premises of a licensed marijuana cultivation facility must (1) be in a separate room that (A) is physically separated by a secure door from any cultivation area; and (B) has a sign that clearly identifies the room as a marijuana concentrate production area, and warns unauthorized persons to stay out; and (2) comply with all applicable provisions of 3 AAC 306.500 - 3 AAC 306.570.*

The bolded section allows for overlapping premises, and again, staff proposes removing from the regulations this entire section.

Staff's proposed regulation removes important language from 3 AAC 306.405(c)(4) – the language removed is the language that shows the original intent of the MCB to allow for overlapping of licensed premises. The original language allows for overlapping of premises:

*(4) [EXCEPT AS PERMITTED UNDER A MARIJUANA PRODUCT MANUFACTURING FACILITY LICENSE,] extract, **produce, or possess** marijuana concentrate [, USING ANY PROCESS DESCRIBED IN 3 AAC 306.555,] at the licensed premises;*

The inclusion of this under the regulations for marijuana cultivation licenses indicates that it was contemplated that multiple licenses would be under one roof. The proposed changes would restrict being allowed to utilize common space such as a communal secure storage. The staff's draft language is arbitrary and capricious and does serve a legitimate purpose; it is simply additional regulation for the sake of regulation.

Currently there is no regulation preventing overlapping premises.

Board member Loren Jones requested that this project be started in order to allow overlapping premises for business records. A regulation project is not needed for this. The board could simply clarify that overlapping premises are allowed as long as they were approved by the board via the premises diagram (MJ-02 or MJ-14). This clarification would be enough as the regulations as seen above do not restrict licensees from overlapping.

The proposed regulation will waste the board's time, AMCO's resources, and inhibit good business practices, all while doing nothing to improve public health and safety, security, or to reduce diversion.

Staff proposes that 306.705 (a) is to include, "Licensed premises shall not overlap except as allowed in subsection (d)." The fact that the phrase "shall not overlap" (which is NOT included in the regulations currently) is being requested by staff to be included further illustrates that the regulations were never intended to prevent overlapping premises and further illustrates the misuse of the power of interpretation by staff. If overlapping of premises were not allowed, the regulations would have clearly stated so. Rather, current regulations provide multiple incidents where the regulations clearly provide for overlap.

The proposed changes to 3 AAC 306.710(a) would make a mess of things at retail stores. 3 AAC 306.710(a) is amended to read: "A marijuana establishment shall restrict access to any part of the licensed premises where marijuana or a marijuana product is grown, processed, tested, stored, or stocked, **or through which marijuana or a marijuana product is moved.**"

This is an issue, as most retail stores accept product through the front door that is also used by customers. If this new amendment is adopted, all customers would have to sign a visitor's log, wear a visitor identification badge, be accompanied by an employee, and be signed out upon leaving. These records would need to be maintained. This is

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prohibited under AS 17.38.190 (b) “In order to ensure that individual privacy is protected, the board shall not require a consumer to provide a retail marijuana store with personal information other than government- issued identification to determine the consumer's age, and a retail marijuana store shall not be required to acquire and record personal information about consumers.”

AMCO staff has made it known that they are overworked and do not have the necessary resources to do all that is expected of them. Licensees are now paying higher renewal fees to help with this. The leadership of AMCO could stop wasting their time on these projects that do not improve anything and work more efficiently. The idea of staff using regulation projects as a vehicle to advance the way it would like the regulations to read is a misuse of the regulation project process. As an industry association – this is concerning and needs to be addressed.

Thank you very much for your continued commitment to our state, our communities, and this industry.

Respectfully,

Alaska Marijuana Industry Association
Board of Directors

The Alaska Marijuana Industry Association is Alaska's only statewide cannabis industry trade group. Our mission is to promote and advocate for a vibrant and reasonably regulated Alaska-based marijuana industry. The AMIA serves to strengthen and enhance a network of connected, independent, informed, regionally and community directed Alaska marijuana organizations.

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Dear Marijuana Control Board,

I oppose the proposed changes to the regulations regarding overlapping premises.

This proposed change does not help increase public health and safety. Furthermore, these changes would inflict an undue burden on licensees, by restricting the use of common spaces between licenses.

Licensees that have multiple licenses in a single building should be allowed to continue sharing common spaces such as secure storage, hallways, waste disposal areas, and other non-production areas. This is currently not prohibited in the regulations.

Thank you for your consideration,

Christian Hood

From: Tina
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Proposed Regulations change comments
Date: Wednesday, October 30, 2019 2:25:04 PM



Here are the public comments for the Proposed Regulation changes from Midnight Greenery CEO and Director of AKCannaED Tina Smith.

OWNERSHIP OF MARIJUANA TESTING FACILITIES (3 AAC 306.015)

I am NOT in support of ANY outside marijuana related business types at this time.

APPLICATION AND RENEWAL DATES (3 AAC.306.025, 3 AAC 306.035)

I am in general support of these regulation changes.

INFANTS ON PREMISES (3 AAC 306.710)

I am in complete favor of these regulation changes

OVERLAPPING PREMISES (3 AAC 306.405, 3 AAC 306.705 3 AAC 306.710, 3 AAC 306.990)

I am in general favor of these regulation changes

TESTING OVERSIGHT (3AAC 306.100, 3 AAC 306.620, 3 AAC 306.635, 3 AAC 306.640)

I am in general favor of these proposed regulation changes

UMBRELLA CATEGORIES (3 AAC 306.520, 3 AAC 306.525, 3 AAC 306.990)

EXCEPT for specifically 306.525 (e)(1) I am in general favor of these proposed regulations .

306.525(e)(1) can be problematic for individual business book keeping and product labeling inside business records as well as waiting for the board to give them those numbers before being able to produce and distribute product to the retail establishments. I would suggest allowing the businesses themselves to assign the product numbers they choose, while being required to share those numbers along with the rest of their plan for each product being created..

Thank you for your time and consideration regarding smart business practices and regulations for our ever growing industry.

Sent from my iPad

From: [Barret Goodale](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Public comment on proposed changes to overlapping premises regulations
Date: Wednesday, October 30, 2019 12:15:11 PM

Dear Members of the Board,

I oppose the proposed draft of changes to the overlapping premises regulation.

This draft is a deceitful attempt to change regulations that were not requested by the board to be changed. Furthermore, the public notice given regarding the changes is misleading and false.

Allowance of overlapping premises is shown in multiple places within the current regulations, and has been upheld through precedent set by this board.

It is disappointing that regulatory authorities are changing interpretations of regulations, after they have been upheld, without any reason or notice given, especially when the new interpretation does nothing to improve public health and safety, businesses, or AMCO efficiency or efficacy.

To this point, this regulation project has been a waste of resources, and an opportunity for the drafters of this proposed regulations to insert their own agenda into the regulations.

I hope the board takes a close look at the proposed changes, the public notice given, and their previous actions. Below is a detailed account of the dishonesty inherent in this draft proposal, and further explanation of why this proposed change would not be beneficial to any party. I appreciate you committing the time to this serious matter.

Sincerely,

C. Barret Goodale

The proposed regulation change concerning overlapping premises is being advertised as giving licensees more liberty with their premises. However, it is doing the opposite and the public notice given is misleading.

The regulations clearly illustrate that shared premises are allowed. The proposed draft is aiming to delete these sections by saying that they are redundant in other sections. This is false, because the redundant portion is also proposed to be removed or amended.

All regulation changes should be providing one of the following:

- Increase public health and safety
- Increase business efficiencies
- Increase enforcement efficiencies

This regulation change does not help any of these categories.

Currently there is no regulation preventing the use of a premise by multiple license types.

Board member Jones requested that this project be started in order to allow overlapping premises for business records. A regulation project is not needed for this. The board could simply clarify that co-spaces of multiple licensees housed under one roof are allowable as shown in the current regulations. This clarification would be enough, as the regulations as seen below do not restrict licensees from using a single space for multiple licenses belonging to the same licensee.

The proposed regulation will waste the board's time, AMCO's resources, inhibit good business practices all while doing nothing to improve public health and safety, security, or reduce diversion.

Here are the details:

306.405 (b) is proposed to be repealed.

Currently, 306.405 (b) states, "A licensed standard marijuana cultivation facility may also apply for a marijuana product manufacturing facility license and a retail marijuana store license. A standard marijuana cultivation facility that obtains a marijuana product manufacturing facility license or a retail marijuana store license shall

- (1) conduct any product manufacturing or retail marijuana store operation in a room completely separated from the marijuana cultivation facility by a secure door when co-located; and
- (2) comply with each provision of this chapter that applies to any other type of marijuana establishment license that the standard marijuana cultivation facility licensee obtains."

306.405 (b) clearly contemplates overlapping premises of cultivation, retail and manufacturing as long as the product manufacturing or retail store operation is separated from the cultivation facility by a secure door.

Currently 306.405 (c) states, "A licensed standard marijuana cultivation facility may not

- (4) except as permitted under a marijuana product manufacturing facility license, extract marijuana concentrate, using any process described in 3 AAC 306.555, at the licensed premises;"

The inclusion of this under the marijuana cultivation licenses regulations indicates that it was contemplated that multiple licenses would be under one roof. The proposed changes would restrict being allowed to utilize common space such as a communal secure storage. This is arbitrary and capricious.

The proposed amendment will change the intent of this regulation.

The public notice for this change states, "3 AAC 306.450 is proposed to be repealed. The prohibition is already stated in 3 AAC 306.405(c)(4)"

This is false and misleading. There is other information in this section that shows that the regulations were intended to allow shared spaces on a premise. 3 AAC 306.450 specifically addresses what needs to be done in order to maintain an overlapping premise and remain in compliance. Secondly, the reg that is being claimed to be containing this information is proposed to be heavily amended.

306.450 states, "A marijuana cultivation facility may not produce or possess marijuana concentrate that was extracted using any process described in 3 AAC 306.555 on the marijuana cultivation facility's licensed premises **unless the marijuana cultivation facility also has a marijuana product manufacturing facility license.** Any extraction or production of marijuana concentrate on the premises of a licensed marijuana cultivation facility must

- (1) be in a separate room that
 - (A) is physically separated by a secure door from any cultivation area; and
 - (B) has a sign that clearly identifies the room as a marijuana concentrate production area, and warns unauthorized persons to stay out; and

(2) comply with all applicable provisions of 3 AAC 306.500 - 3 AAC 306.570.”

306.705 (a) is proposed to include, “Licensed premises shall not overlap except as allowed in subsection (d).”

The fact that this phrase is being requested to be included further illustrates that the regulations were never intended to prevent overlapping premises. Otherwise, the regulations would have clearly stated so already.

The proposed changes to 3 AAC 306.710(a) would make a mess of things at retail stores. 3 AAC 306.710(a) is amended to read: “A marijuana establishment shall restrict access to any part of the licensed premises where marijuana or a marijuana product is grown, processed, tested, stored, or stocked, **or through which marijuana or a marijuana product is moved.**”

This is an issue, as most retail stores accept product through the front door. If this new amendment is adopted, then all customers would have to sign a visitors’ log, wear a visitor identification badge, be accompanied by an employee, and be signed out upon leaving. These records would need to be maintained. I believe this is prohibited under AS 17.38.190 (b) “In order to ensure that individual privacy is protected, the board shall not require a consumer to provide a retail marijuana store with personal information other than government- issued identification to determine the consumer's age, and a retail marijuana store shall not be required to acquire and record personal information about consumers.”

These proposed changes are preposterous. More importantly, the mendacious behavior by the drafter should not be taken lightly.

Graciously,

C. Barret Goodale
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