



MEMORANDUM

TO: Marijuana Control Board

DATE: July 10, 2019

FROM: Erika McConnell, Director

RE: Director's Report

OPERATIONS

We will shortly be conducting interviews for the Regulations Specialist position. I hope to have the Program Coordinator position filled by the end of the summer.

ISSUES

Renewal Applications

3 AAC 306.035(a) states, "...Any marijuana establishment with a license in active and operating status on or before June 30 of the current year must submit the completed renewal application electronically, along with the license renewal fee, to the director not later than June 30 of each year. If June 30 falls on a Saturday or Sunday, the deadline is extended to 4:30 p.m. on the first business day following June 30..."

I read this to mean that all renewal application documents must be received by the deadline, but we have received some that have been postmarked by the deadline. What is the board's interpretation?

Recreation or Youth Center

The board asked for documentation from the minutes regarding its various deliberations on this issue.

- August 10-11, 2015

Brandon Emmett motions to strike "child-centered facility including a school, daycare, or other facility providing services to children" and replace with "school" in 3 AAC 306.010(a).

Mark Springer seconds motion

"Memorandum for all United States Attorneys: Guidance Regarding Marijuana Enforcement" from Deputy Attorney General James M. Cole dated August 29, 2013 (Cole Memo) handed out to Board members.

Discussion regarding the Cole Memo, federal drug-free zoning laws, definition of "school", distances from a school, AS 11.71.030 and AS 11.71.900(20).

Board votes, and amended motion carries unanimously

Brandon Emmett motions to amend amendment to read "within 500 feet of a school or a recreation or youth center", and use the definition of "recreation or youth center" from AS 11.71.900(20).

Mark Springer seconds motion

Motion carries unanimously

- June 9-10, 2016, during consideration of Northern Lights Indoor Gardens, LLC #10136
The board discusses 3 AAC 306.010(a) and 3 AAC 306.990(b)(35) regarding whether or not the board wants to determine if an arcade would be considered a recreation or youth center, or if the board wants to defer that interpretation to the local government.

No conclusion is provided in the minutes, but the application is approved.

- February 2, 2017, during consideration of Tempt, LLC #11091
*Leslie Hysom, Anchorage Driver Training, states that they provide training to anyone ages 14 and above.
The Board members discuss whether or not this meets the definition of "recreation or youth facility" in regulation.*

The application is approved.

- April 4, 2017, during consideration of Northlink #11051 and True Dank #11053 which is 150 from a licensed daycare
*The Board members discuss daycare facilities and whether or not they would meet the definition of a recreation or youth center.
Jake Staser passes out exhibits to the Board members, which include application documents, aerial diagrams, minutes and other documents from Board and assembly meetings, regulations, and emails. He confirms that the daycare in question is an in-home daycare that is licensed through the State.
Brandon Emmett states that he could see where the applicant's confusion lies, especially considering the intent of the motion that Brandon Emmett made at the August, 2015 Board meeting to remove "daycare" from the regulation.*

Application is tabled.

- May 15, 2017, during consideration of Northlink #11051 and True Dank #11053
In the packet, AAG Milks provides opinion that a licensed daycare is a recreation or youth center:
"It is commonly understood that at a minimum, a daycare is a facility that is
 - operated by a public or private organization
 - licensed to provide shelter, training, or guidance for persons under 21 years of age.These same characteristics define "recreation or youth center" in the regulation. Typically, a daycare is housed in a building or structure, and the training and guidance is geared to the needs of very young children, and may include fundamental lessons in dressing, feeding, conflict resolution, and personal hygiene as well as elementary education. Other kinds of facilities cater to older children and teens; these may include athletic playing fields or playgrounds run by local governments. These, too, are within the definition at 3 AAC 306.990(b)(35).
To be sure, the definition captures a wide range of facilities, but they all are places where persons under the age of 21 congregate and may spend significant amounts of time. The board determined that siting a marijuana establishment in close proximity to such a place would run the risk of exposing underage persons to marijuana – something our statute and the federal guidance are committed to preventing.

Ms. Milks further noted that it might be instructive to review HSS-related statute and regulation, although they are not controlling for the board:

AS 47.25.095(3)

“day care” means the care, supervision, and guidance of a child or children unaccompanied by a parent or legal guardian on a regular basis for periods of less than 24 hours a day.

7 AAC 57.990(4)

(4) "child care" or "care" means the supervision and provision of developmental opportunities, with or without compensation, to a child who does not have a parent present; "child care" or "care" includes services in or away from the child care facility.”

The Board members discuss whether a licensed daycare facility would fall under the definition of recreation or youth center.

Loren Jones moves to deny the license application due to a lack of the facility meeting the required separation from a recreation or youth center as required under 3 AAC 306.010(a).

Peter Mlynarik asks whether the motion is for both Northlink and True Dank.

Loren Jones states that it is.

Mark Springer seconds the motion.

Motion fails, 2-3 (Loren Jones and Peter Mlynarik vote Yes).

Brandon Emmett moves to approve license #11051 Northlink LLC and license # 11053 True Dank LLC with delegation.

Nick Miller seconds the motion.

Motion carries, 3-2 (Loren Jones and Peter Mlynarik vote No).

Brandon Emmett moves to open a regulations project for clarification on the definition of recreation or youth centers.

None opposed.

- July 14, 2017 – review of initial draft of “recreation or youth center” definition regulation (draft attached)

Springer moves to release draft definition of recreation youth center as presented. Miller seconds. Emmett: I disagree with this project. By striking “licensed” this makes it more broad.

Milks: Would it work to move “licensed” to be an adjective, as in “Operated by a licensed public or private organization?”

McConnell: Struggled with term “licensed.” As far as I can tell, the only other license is a child care license. We license doctors, but we don’t license doctors’ offices. The intent of the Cole Memo is to prevent marijuana from being accessed by children. I think the board needs to provide intent on the meaning. We talked about the driver training school. They offer classes to all sorts of people. Youth go to the grocery store. We want to separate them from all places that primarily serve youth. This draft more clearly would exempt a driver training school from being a protected land use.

Jones: I was on the board of Catholic Community Services in community. Many services were licensed to provide care for children. It was never licensed by the State of Alaska. But our grant conditions required us to fulfill certain conditions. I don’t want to put this out as presented. I don’t have any solutions.

Springer: Anyone that provides care and receives Medicaid essentially is licensed. The only good reason to send this out would be to receive public comment. We could get a lot of reaction or no reaction. I think we might want to think this through a little more and ask the administration to collaborate with DHHS and with licensing authority to find out how many licenses are out there. The folks we are describing as in the way of development, we shouldn't consider them as in the way.
Motion fails 5-0. Draft is not approved for public comment.

- April 6, 2018 – review of revised draft of “recreation or youth center” regulation (draft attached)
Brandon Emmett moves that the Board put out for public comment this draft regulation for definition of “recreation or youth center”.
Nick Miller seconds the motion.
The Board members discuss concerns regarding the density of child care facilities, and regarding eliminating protections for the facilities.
Motion carries, 3-1 (Loren Jones votes No).
- June 15, 2018 – review of public comments on “recreation or youth center” regulation
Brandon Emmett moves to table this definition of recreation or youth center proposed regulation until the August meeting when the Board has its fifth member.
Nick Miller seconds the motion.
Motion carries unanimously.
- August 15, 2018 – review of public comments on “recreation or youth center” regulation
Brandon Emmett moves to adopt the project titled “Definition of Recreation or Youth Center”.
Jeff Ankerfelt seconds the motion.
The Board members note that one public comment was received in support for the project.
Motion fails, 2-3 (Nick Miller and Brandon Emmett vote No).

SPECIFIC LICENSES

10071 Vern’s Wicked Weed – Board reinstated approval in May and required a report that inspection has been completed by the July meeting. As of July 7, no inspection has been performed.

REGULATIONS

Attached to this report is a regulations projects status spreadsheet.

NEXT MEETING

The next MC Board meeting is scheduled for September 11-13 in Nome. Applications must be complete and any other documents for the board must be submitted to our office by August 23 to be on the agenda.

STATISTICS

Retail Sales

<i>Month</i>	<i>Total Sales</i>		
April	\$13,551,708	2016 Total Sales	\$1,689,329

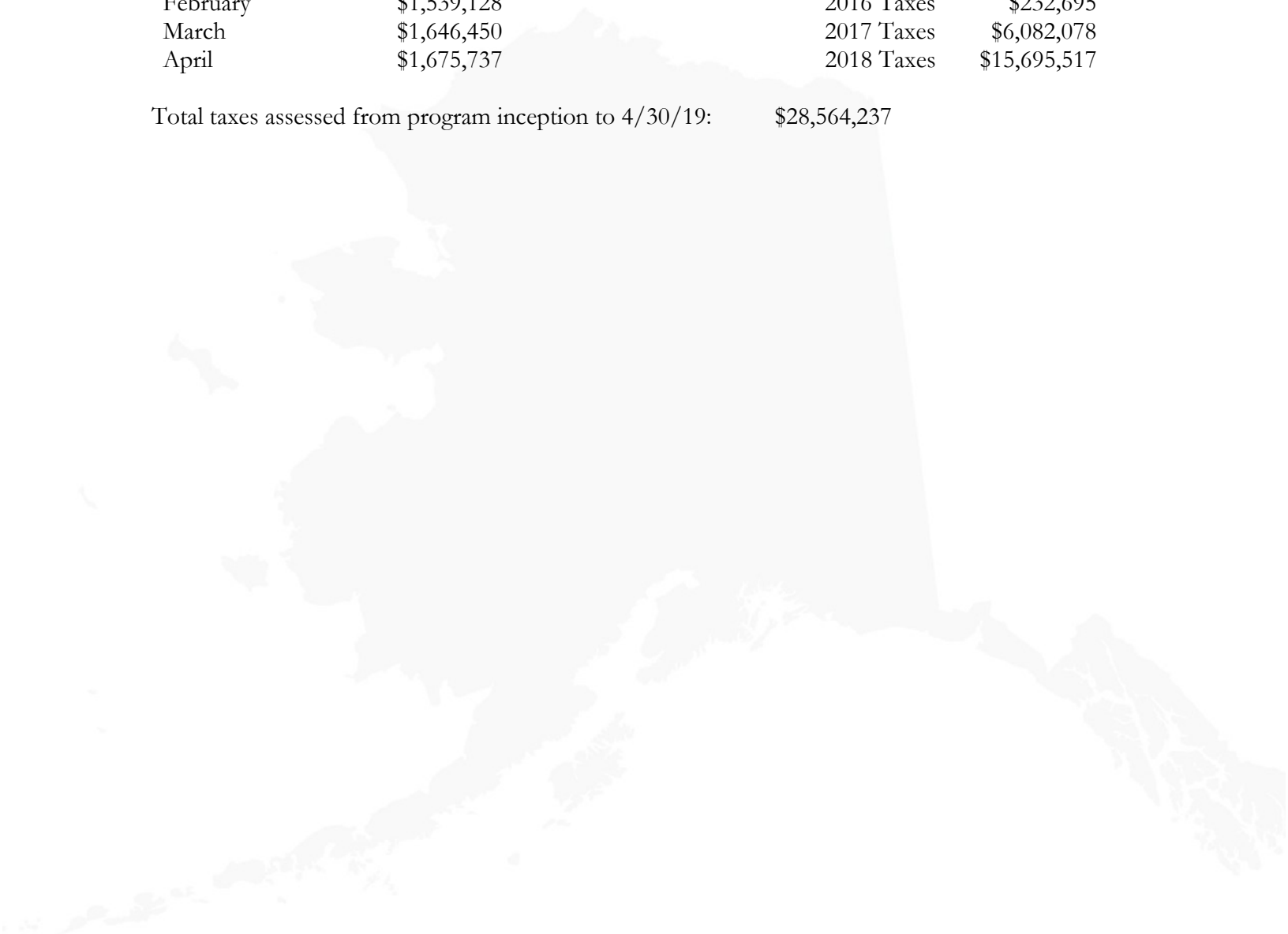
May	\$15,263,439	2017 Total Sales	\$57,562,728
June	\$15,463,421	2018 Total Sales	\$130,475,707

Total retail sales from program inception to 6/30/19: \$269,717,410

Taxes Assessed From Licensees Who Filed Returns

<i>Month</i>	<i>Taxes Assessed</i>		
February	\$1,539,128	2016 Taxes	\$232,695
March	\$1,646,450	2017 Taxes	\$6,082,078
April	\$1,675,737	2018 Taxes	\$15,695,517

Total taxes assessed from program inception to 4/30/19: \$28,564,237



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

3 AAC 306.990(b)(35) is amended to read:

(35) “recreation or youth center” means a building, structure, athletic playing field, or playground

(A) run or created by a local government or the state to provide athletic, recreational, or leisure activities for persons under 21 years of age; or

(B) operated by a public or private organization **whose primary purpose** is [LICENSED] to provide shelter, training, or guidance for persons under 21 years of age;

(C) but excludes a child care home as defined in 7 AAC 57.990;

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

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(A) run or created by a local government or the state to provide athletic, recreational, or leisure activities for persons under 21 years of age; or

(B) operated by a public or private organization licensed to provide shelter, training, or guidance for persons under 21 years of age;

(C) but excludes a child care home as defined in 7 AAC 57.990;

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
	Separation distance	4/5/17	17	Springer	Draft on 9/14 agenda; no action	N/A	N/A

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
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		
	Overlapping premises	1/25/18	18	Jones	Draft on July 2019 agenda		
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; out for comment 2/20/19; comments due 4/12/19; adopted 5/1/19; sent to DOL 5/23/19	5/1/19	
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

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
	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 Testing (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		
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
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 December February mtg; out for comment 2/20/19; comments due 4/12/19; tabled 5/1/19		
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
	Handler courses	10/17/18	19	Emmett	Out for comment 2/20/19; comments due 4/12/19; adopted 5/1/19; sent to DOL 5/23/19	5/1/19	
	Denial of license application	10/17/18	19	Emmett	Out for comment 2/20/19; comments due 4/12/19; adopted 5/1/19; sent to DOL 5/23/19	5/1/19	
	Umbrella Categories for Products	10/17/18	19	Emmett			
JU2019200399	Onsite Consumption Cleanup	2/20/19	19	Emmett	put out for comment 5/1/19; cmts due 6/19/19		

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
	Packaging and Labeling	2/20/19	19	Emmett			
	Revocation of Handler permit revisions	2/20/19	19	Springer	Initial draft on July 2019 agenda		
	Transportation	2/20/19	19	Emmett			
	Retesting	2/20/19	19	Emmett			
	Advertising	2/20/19	19	Miller			
JU2019200396	Testing Oversight		19		put out for comment 5/1/19; cmts due 6/19/19		
	Infants on Premises	5/1/19	19				