



MEMORANDUM

TO: Marijuana Control Board DATE: January 23, 2019

FROM: Glen Klinkhart, Interim Director RE: Regulations Project – Out-Of-State
Investment in Testing Facilities

The board opened this regulations project at the January 2018 meeting and adopted it on May 1, 2019.

During review by the Department of Law, the Department concluded that a portion of the adopted language is ambiguous and not susceptible to any kind of predictable assessment. The Department recommended reconsidering your approval, amending the regulation with suggested language, and putting the regulation back out for public comment.

The board followed the recommendation of the Department of Law, and the revised regulations language was posted for public comment for 41 days, closing on October 30, 2019. Four 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

3 AAC 306.015 is amended by adding a new subsection to read:

(f) Notwithstanding (b) of this subsection, the board may issue a marijuana testing facility license, renew a testing facility license, or approve the transfer of a marijuana testing facility to the following entities upon determining the non-resident involvement enhances marijuana testing in the state.

(1) Eligible entities are

(A) a partnership if at least half of the partnership interest is held by partners who are residents of the state;

(B) a limited liability company if the limited liability company is qualified to do business in the state and at least half of the ownership of the company is held by members who are residents of the state; or

(C) a corporation if the corporation is incorporated or qualified to do business in the state and at least half of the corporate stock is held by shareholders who are residents of the state.

(2) In determining whether the non-resident involvement enhances marijuana testing in this state, the board may consider whether the non-resident involvement

(A) directly contributes to improvements in the testing facility's procedures;

(B) enables or supports hiring and retention of highly qualified employees;

(C) provides expertise not otherwise reasonably available in this state;

(D)) enables the facility to obtain and maintain state-of-the-art equipment;

and

(E) any other factor the board deems relevant. (Eff. 2/21/2016, Register 217; add'l am 2/21/2016, Register 217; am 2/21/2019, Register 229; am 4/11/19, Register 230; am ___/___/_____, Register _____)

Authority: AS 17.38.010 AS 17.38.150 AS 17.38.200
AS 17.38.070 AS 17.38.190 AS 17.38.900
AS 17.38.121

From: [Chris Farris](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Public Comment for Ownership of Marijuana Testing Facilities
Date: Thursday, October 17, 2019 6:40:27 PM

Marijuana Control Board,

I would like to start by saying that I support this regulation change as written but I also have a suggestion for another or an additional option that may help with the problem that this regulation change addresses. I think in addition to allowing out of state investments in a testing facility, it may be beneficial to open this license type up to the rest of the marijuana industry.

If you were to change the regulations to allow a person or company to hold all license types, including a testing facility but added language that prohibited a testing facility from testing product from any licensed facility that shared a licensee with the testing facility you could effectively achieve what the current regulations do with regards to testing facilities while also allowing the current industry members a chance to fund a testing facility if they so choose.

The way the current regulations are written there is nothing the rest of the industry can do to help with the lack of testing facilities. All licensees no matter what license type rely on testing facilities. I believe given the opportunity the industry would help to solve this issue and I think it would be beneficial to allow the industry the chance to do something about it.

Best Regards,
Chris Farris
CFO | Co-Owner
Green Jar

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: [Tina Smith](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Public comment on Ownership of Marijuana Testing Facilities
Date: Wednesday, October 30, 2019 2:47:02 PM



To the Honorable members of the Marijuana Control Board,

I would like to add my public comment for consideration when making the decision on the proposed regulation changes regarding Ownership of Marijuana Establishments. I am NOT in support of this change as it is currently written.

I urge you to take the comments of the AMIA into serious consideration when deciding the best course of action regarding this topic going forward.

Thank you so much for your time and consideration on this.
Tina Smith
CEO Midnight Greenery
Director of AKCannaED



October 28, 2019

Via email

Subject: Public comment on 3 AAC 306.015, dealing with marijuana testing facility ownership

Dear Honorable Marijuana Control Board Members:

The proposed regulation **should not be adopted**.

Without baseline standards in place, this regulation project is out of sequence and should be placed on hold. The testing working group should first be re-established and allowed to work through common issues facing labs and the industry in a robust, transparent, and inclusive manner.

We believe that bringing in outside competition at this early stage, when testing oversight is still up in the air, is like putting the cart before the horse.

Establish proper laboratory oversight and standards through collaborative relationships with labs and industry members. Allow labs a reasonable amount of time to rework their operations and business plans to meet new standards.

Please respect the Alaska-owned and operated testing facilities that have pioneered this industry with us. Give them every opportunity to meet increased standards before drastically changing the playing field.

If Alaska labs are eventually unable to meet advancing requirements without outside investment, then we would be happy to discuss expanding ownership of these businesses.

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

Respectfully,

Alaska Marijuana Industry Association
Board of Directors

www.alaskamarijuanaindustry.org