



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community, and Economic Development

Alcohol and Marijuana Control Office

550 West 7th Avenue, Suite 1600
Anchorage, AK 99501
Main: 907.269.0350

MEMORANDUM

TO: Marijuana Control Board DATE: August 19, 2020

FROM: Jane P. Sawyer, Regulations Specialist RE: Regulations Project –
Overlapping Premises

At the June 2020 meeting, the board sent out for public comment a freshly revised draft. Public comment was opened for about 60 days closing on August 14, 2020. Three comments were received and they are attached for your consideration.

In general, this project would:

- Permit, upon approval, overlapping of licensed premises between licensed businesses that are owned by the same individual or the same group of individuals under the same roof/licensed premises.
- Permit, upon approval, having non-contiguous licensed areas that could also be shared between licenses owned by the same individual or the same group of individuals under the same roof/licensed premises.
- Permit, upon approval, share marijuana storage areas between licenses owned by the same individual or the same group of individuals under the same roof/licensed premises.

Options for the board:

- Vote to adopt
- Amend and 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 306.020(b)(8) is amended to read:

(8) the address of the premises to include global positioning system (GPS)

coordinates where the applicant intends to operate a marijuana establishment, and a detailed

diagram of the proposed licensed premises; the diagram must show all entrances and boundaries

of the premises, restricted access areas, [AND] storage areas, and, if applicable, areas that

may be approved by the board under 3 AAC 306.705(d) and 3 AAC 306.710(d);

(Eff. 2/21/2016, Register 217; am 8/11/2018, Register 227; 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		

3 AAC 306.047(c)(3) is amended to read:

(3) a detailed diagram of the proposed licensed premises; the diagram must show all entrances and boundaries of the premises, restricted access areas, [AND] storage areas, and, **if applicable, areas that may be approved by the board under 3 AAC 306.705(d) and 3 AAC 306.710(d).**

(Eff. 2/21/2019, Register 229; 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		

3 AAC 306.305 is amended by adding a new subsection to read:

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

(1) conduct any marijuana cultivation or marijuana product manufacturing operation in a room completely separated from the retail marijuana store by a secure door when co-located; and

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(2) comply with each provision of this chapter that applies to any other type of marijuana establishment license that the retail marijuana store licensee obtains. (Eff. 2/21/2016,

Register 217; 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

3 AAC 306.405(c)(4) is repealed:

(4) repealed ____/____/_____; [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;]

3 AAC 306.405(c)(5) is amended to read:

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

3 AAC 306.405(c)(6) is amended to read:

(5) [(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 306.405(c) is amended by adding a new paragraph to read:

(6) 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

(A) be in a separate room that

(i) is physically separated by a secure door from any

cultivation area or areas; and

(ii) has a sign that clearly identifies the room as a marijuana

concentrate production are, and warns unauthorized persons to stay out; and

(B) comply with all applicable provisions of 3 AAC 306.500 – 3 AAC

306.570. (Eff. 2/21/2016, Register 217; am 10/20/2018, Register 228; am

____/____/_____, Register _____)

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

3 AAC 306.450 is repealed:

3 AAC 306.450. Production of marijuana concentrate prohibited. Repealed. (Eff.

2/21/2016, Register 217; repealed ____/____/_____, Register _____)

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

AS 17.38.900

3 AAC 306.505 is amended by adding a new subsection to read:

(b) A licensed marijuana product manufacturing facility, including a licensed marijuana concentrate manufacturing facility, may also apply for a marijuana cultivation facility license and a marijuana retail store license. A marijuana product manufacturing facility, including a marijuana concentrate manufacturing facility, that obtains a marijuana cultivation facility license or marijuana retail store license, shall

(1) conduct any marijuana cultivation or marijuana retail store operation in a room completely separated from the marijuana manufacturing 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 marijuana product manufacturing facility or marijuana

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concentrate manufacturing facility licensee obtains. (Eff. 2/21/2016, Register 217; am

____/____/_____, Register _____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.121

AS 17.38.150 AS 17.38.190 AS 17.38.200

AS 17.38.900

3 AAC 306.610(b) is amended by adding a new paragraph to read:

(4) have in common licensed areas including restricted access areas within the

licensed premises with any other marijuana establishment licensee. (Eff.

2/21/2016, Register 217; am ____/____/_____, Register _____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.121

AS 17.38.150 AS 17.38.190 AS 17.38.200

AS 17.38.900

The introductory language of 3 AAC 306.705(a) is amended to read:

3 AAC 306.705. Licensed premises; alteration. (a) A marijuana establishment license will be issued for specific licensed premises. **Licensed premises must be contiguous, except that the board may approve noncontiguous portions of the licensed premises that are not a restricted access area under 3 AAC 306.710.** 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

...

3 AAC 306.705(b) is amended to read:

(b) A marijuana establishment's license **and, if applicable, an endorsement issued under 3 AAC 306.110 and 3 AAC 306.370** must be posted in a conspicuous place within the licensed premises.

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

(d) The board may approve two or more licenses, owned by the same person or the same group of persons, within the same building or with abutting premises to use in common by all the licenses the following areas: office, employee breakroom, bathrooms, non-marijuana storage areas. The common areas under this subsection may not be restricted access areas as prescribed

under 3 AAC 306.710(Eff. 2/21/2016, Register 217; am ____/____/_____, Register _____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.121

AS 17.38.150 AS 17.38.190 AS 17.38.200

AS 17.38.900

3 AAC 306.710 is amended by adding a new subsection to read:

(d) The board may approve two or more licenses, owned by the same person or the same group of persons, within the same licensed building approved under 3 AAC 306.705(d), to use in common marijuana or marijuana product storage areas as long as the marijuana or marijuana product is properly accounted for in the marijuana establishment's inventory tracking system required under 3 AAC 306.730, the marijuana or marijuana product is expressly identified as inventory of the appropriate marijuana establishment to which the marijuana or marijuana product belongs, and the area is a restricted access area in compliance with this section and any other applicable provision of this chapter that applies to a restricted access area including video surveillance and specific restricted access area provisions of the license type to which the marijuana or marijuana product belongs. A licensee will be issued a notice of violation under 3

AAC 306.805(a) if it fails to comply with this subsection.

this chapter. (Eff. 2/21/2016, Register 217; am ____/____/_____, Register _____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.121

AS 17.38.150 AS 17.38.190 AS 17.38.200

AS 17.38.900

3 AAC 306.720 is repealed and readopted to read:

3 AAC 306.720. Video surveillance. (a) A marijuana establishment shall install and maintain a video surveillance and camera recording system as provided in this section. The video system must cover

(1) each restricted access area and each entrance to a restricted access area within the licensed premises;

(2) each entrance to the exterior of the licensed premises; and

(3) each point-of-sale area.

(b) At a marijuana establishment, a required video camera must be placed in a way that produces a clear view adequate to identify any individual inside the licensed premises, or within

20 feet of each entrance to the licensed premises. Both the interior and the exterior of each entrance to the facility must be recorded by a video camera.

(c) Any area where marijuana is grown, cured, or manufactured, or where marijuana waste is destroyed, must have a camera placement in the room facing the primary entry door, and in adequate fixed positions, at a height that will provide a clear, unobstructed view of the regular activity without a sight blockage from lighting hoods, fixtures, or other equipment, in order to allow for the clear and certain identification of any person and activity in the area at all times.

(d) Surveillance recording equipment and video surveillance records must be housed in a locked and secure area or in a lock box, cabinet, closet or other secure area that is accessible only to a marijuana establishment licensee or authorized employee, and to law enforcement personnel including a peace officer or an agent of the board. A marijuana establishment may house surveillance recording equipment and video surveillance records in an area approved by the board under 3 AAC 306.705(d) and 3 AAC 306.710(d) as long as the area meets the security requirements under this subsection.

(e) A marijuana establishment may use an offsite monitoring service and offsite storage

of video surveillance records if security requirements at the offsite facility are at least as strict as onsite security requirements as described in (d) of this section.

(f) Each surveillance recording must be preserved for a minimum of 40 days, in a format that can be easily accessed for viewing. All recorded images must clearly and accurately display the time and date, and must be archived in a format that does not permit alteration of the recorded image, so that the images can readily be authenticated. After 40 days, a marijuana establishment may erase video recordings, unless the licensee knows or should know of any pending criminal, civil, or administrative investigation for which the video recording may contain relevant information. (Eff. 2/21/2016, Register 217; am ____/____/_____, Register ____)

Authority:	AS 17.38.010	AS 14.38.070	AS 17.38.121
	AS 17.38.131	AS 17.38.150	AS 17.38.190
	AS 17.38.200	AS 17.38.900	

3 AAC 306.725(a) is amended to read:

3 AAC 306.725. Inspection of licensed premises. (a) A marijuana establishment or an

applicant for a marijuana establishment license under this chapter shall, upon request, make the licensed premises or the proposed licensed premises, including any place for storage **and areas described under 3 AAC 306.705(d) and 3 AAC 306.710(d)**, available for inspection by the director, an employee or agent of the board, or an officer charged with the enforcement of this chapter. The board or the director may also request a local fire protection agency or any other state agency with health and safety responsibilities to inspect licensed premises or proposed licensed premises.

(Eff. 2/21/2016, Register 217; am ____/____/_____, Register _____)

Authority:	AS 17.38.010	AS 17.38.070	AS 17.38.121
	AS 17.38.131	AS 17.38.150	AS 17.38.190
	AS 17.38.200	AS 17.38.900	

3 AAC 306.755(a)(1) is amended to read:

(a) A marijuana establishment shall maintain in a format that is readily understood by a reasonably prudent business person

(1) all books and records necessary to fully account for each business transaction conducted under its license for the current year and three preceding calendar years; records for the last six months must be maintained on the marijuana establishment's licensed premises **or in an area approved by the board under 3 AAC 306.705(d).** [;] **Older** [OLDER] records may be archived on or off premises;

3 AAC 306.755(a)(5) is amended to read:

(5) a current diagram of the licensed premises including each restricted access area[;] **and each area approved by the board under 3 AAC 306.705(d) and 3 AAC 306.710(d).**

(Eff. 2/21/2016, Register 217; am ____/____/_____, Register _____)

Authority:	AS 17.38.010	AS 14.38.070	AS 17.38.121
	AS 17.38.131	AS 17.38.150	AS 17.38.190
	AS 17.38.200	AS 17.38.900	

3 AAC 306.800(a)(1) is amended to read:

(a) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity, may

(1) Inspect the licensed premises of a marijuana establishment, including **areas approved under 3 AAC 306.705(d) and 3 AAC 306.710(d)**, any marijuana and marijuana product on the premises, equipment used in cultivating, processing, testing, or storing marijuana, the marijuana establishment's marijuana inventory tracking system, business records, and computers, at any reasonable time and in a reasonable manner;

(Eff. 2/21/2016, Register 217; am ____/____/_____, Register _____)

Authority:	AS 17.38.010	AS 17.38.070	AS 17.38.121
	AS 17.38.131	AS 17.38.150	AS 17.38.190
	AS 17.38.200	AS 17.38.900	

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

(23) "licensed premises" means any or all designated portions of a building or

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structure, or rooms or enclosures in the building or structure[,] **including areas approved by the board under 3 AAC 306.705(d) and 3 AAC 306.710(d), or designated outdoor areas,** at the specific **location** [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;

(Eff. 2/24/2015, Register 213; am 2/21/2016, Register 217; am 10/11/2017, Register 224; am 8/11/2018, Register 227; am 10/20/2018, Register 228; am 4/11/2019, Register 230; am 5/9/2019, Register 230; am ____/____/_____, Register _____)

Authority:	AS 17.38.010	AS 17.38.040	AS 17.38.070
	AS 17.38.121	AS 17.38.150	AS 17.38.190
	AS 17.38.200	AS 17.38.900	

Repealed language of 3 AAC 306.450 [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.]



Jana D. Weltzin
Licensed in Alaska & Arizona
901 Photo Ave
Anchorage, Alaska 99503
Phone 630-913-1113
Main Office 907-231-3750
JDW, LLC
jana@jdwcounsel.com

August 14th, 2020

Honorable Marijuana Control Board
AMCO Director Klinkhart & AMCO Staff
Sent via Electronic Mail

Re: Overlapping Licensed Premises Regulation Project

Dear Honorable Marijuana Control Board Members:

This project has been in the works for a very long time, over a year I believe, and your excellent staff have fine-tuned this regulation and gotten it right. I would encourage you to support passing this regulation change. By doing so, this regulation change will allow licenses owned by the same person or group of persons¹ to efficiently utilize their space in their facility, and more importantly, allow for a centralized marijuana/marijuana products storage area. This will greatly increase the security of the facilities, and allow for greater control and oversight of marijuana/marijuana products, as the products could now finally be in one secure restricted access area. This regulation change is something that licensees have needed for a long time and will help them function as a more secure and normal business.

Additionally, this is a good time to start talking about how Hemp registrations interplay with marijuana companies. Marijuana companies are uniquely positioned to be business actors as Hemp product processors and Hemp retailers. Much of the equipment used for creating CBD products and extracting oil from Industrial Hemp are the same equipment that marijuana manufacturers have already invested in. In fact, many retailers and manufacturers are already in the process of obtaining their Hemp Registrations. Due to the Federal legal nature of Industrial Hemp and related products, it would make sense for marijuana retailers and producers to start a separate legal entity to hold the Hemp Registration. Operating a Hemp company within a marijuana licensed premises would be ideal for your marijuana licensees. Perhaps the board could consider approving this shared spaced regulation project, but then also open up the discussion of using a similar concept to allow for Hemp entities owned by the same person(s) to utilize space in the licensed marijuana facilities for Hemp activities under the Alaska Hemp Registration program.

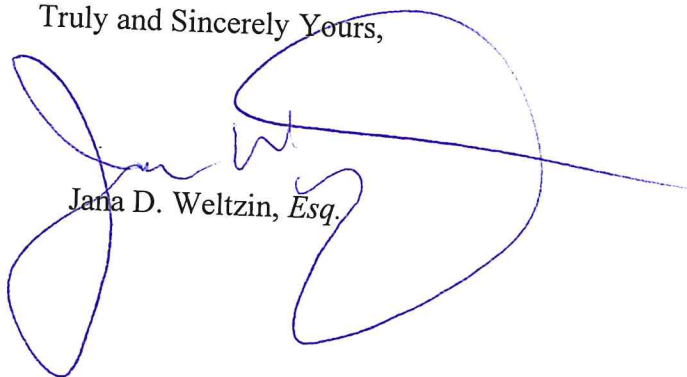
¹ Even if there is a separate entity holding each license, its my understanding that as long as the varying entities are owned by the same person or group of persons, then the regulation would allow for overlapping premises.



Jana D. Weltzin
Licensed in Alaska & Arizona
901 Photo Ave
Anchorage, Alaska 99503
Phone 630-913-1113
Main Office 907-231-3750
JDW, LLC
jana@jdwcounsel.com

I 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. Thank you for your continued hard work, dedication, and commitment to the success of this regulated industry.

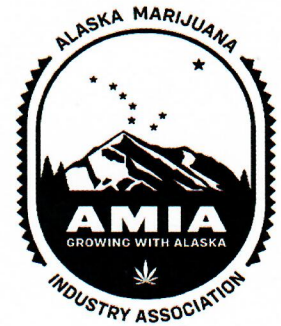
Truly and Sincerely Yours,



Jana D. Weltzin, Esq.

August 14, 2020

Via email to: amco.regs@alaska.gov



Subject: Public Comment on 3 AAC 306 - PROPOSED CHANGES ON OVERLAPPING PREMISES

Dear Honorable Marijuana Control Board Members,

The Marijuana Control Board proposes to adopt regulation changes in 3 AAC.306 with regard to overlapping premises.

We support this regulation change as written.

We generally support the changes as they remove confusing previous amendments while adding more refined regulation language. The Overlapping Premises regulation has been a complex project to navigate since its introduction in January 2018, where Board Member Jones first proposed this regulation project. At the time the Marijuana Control Board had no regulation explicitly excluding overlapping premises. Furthermore any premises that could be considered "overlapping or shared" had to go through the Marijuana Control Board's approval process and at the time considered to be compliant with 3 AAC.306.450(b.) The last change in October of 2019 - proposed by the former director - undermined the concept of the regulation entirely, ultimately eliminating the ability and purpose of overlapping premises.

The current changes for overlapping premises promote not only staff and business efficiencies, it utilizes common sense while including what the Industry has asked for both times the board sent this project out for public comment. It's understandable not every regulation change is perfect as there is always opportunity to adapt regulations while the industry grows. We appreciate the ability to weigh in on regulation projects and the effects that shape the industry.

This regulation change is very welcomed and opens the discussion for the subject of Hemp Registrations. Many retailers and manufacturers will be obtaining Hemp Registrations. Due to the Federal legal nature of Industrial Hemp and related products, it would make sense for marijuana retailers and producers to start a separate legal entity to hold the Hemp Registration. Perhaps the board could approve these regulations but then also open up the discussion of using a similar concept to allow for Hemp entities owned by the same person(s) to utilize space in the licensed marijuana facilities for Hemp activities under the Alaska Hemp Registration program.

Lastly, the AMIA would like to extend our gratitude to the AMCO staff and the Marijuana Control Board for your hard work, time, and dedication to our Industry.

Respectfully,

Lacy Wilcox

On behalf of the Alaska Marijuana Industry Association
Board of Directors & Governance Committee

*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.*

www.alaskamia.org

CED AMCO REGS (CED sponsored)

From: Barret Goodale <barret@goodalaska.com>
Sent: Tuesday, June 23, 2020 3:18 PM
To: CED AMCO REGS (CED sponsored)
Subject: PROPOSED CHANGES ON OVERLAPPING PREMISES IN THE REGULATIONS OF THE MARIJUANA CONTROL BOARD

Dear Members of the Board,

Jane Sawyer and the AMCO staff have done an excellent job incorporating the concerns from written comment into this regulation project. I support the changes, and greatly appreciate the work that went into the editing process of this regulation.

Sincerely,

C. Barret Goodale
GOOD Cultivation Manager
907-699-9478

Follow GOOD on [Instagram](#), [Twitter](#), and [Facebook](#)
Alaska Marijuana Industry Association member