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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Micaela Fowler, Department of Commerce, Community and Economic Development

FROM: Scott Meriwether, Office of the Lieutenant Governor 465.4081 

DATE: November 28, 2016

RE: Filed Permanent Regulations: Marijuana Control Board

Marijuana Control Board regulations re: board administration (3 AAC 306.925 - 3 AAC 306.935)

Attorney General File:	JU2016200436 (Part 1)
Regulation Filed:	November 28, 2016
Effective Date:	December 28, 2016
Print:	220, January 2017

cc with enclosures: Linda Miller, Department of Law
Dianne Blumer, Administrative Regulation Review Committee
Judy Herndon, LexisNexis

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF THE ALCOHOLIC BEVERAGE CONTROL BOARD

The attached two pages of regulations, dealing with Administration of the Marijuana Control Board, is certified to be a correct copy of the regulation changes that the Marijuana Control Board adopted at its July 7, 2016 meeting, under the authority of AS 17.38.121 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

On the record, in considering public comments, the Marijuana Control Board paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes described in this order take effect on the 30th day after they have been filed by the lieutenant governor as provided in AS 44.62.180.

Date: 10/27/2016



Cynthia A. Franklin, Director

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on

November 28, 2016 at 10:15 A.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.



Byron Mallott, Lieutenant Governor

Effective: December 28, 2016

Register: 220, January 2017

3 AAC 306 is amended by adding new sections to read:

3 AAC 306.925. Submissions to the board. Except as otherwise specifically provided in

this chapter, applications and communications of a formal nature must be submitted in writing,

upon prescribed forms as appropriate, to the board at its main office, and are not considered

timely filed until received there. (Eff. 12/28/2016, Register 220)

Authority: AS 17.38.190 AS 17.38.200

3 AAC 306.930. Staff. (a) The director of the board is responsible for the management

of the board's offices, the administration of the board's functions and the enforcement of AS

17.38 and this chapter.

(b) The director ^{shall} will employ and supervise necessary clerical and investigative personnel and ^{shall} will prescribe their duties and authority.

(c) The director ^{shall} will prescribe forms for application for new licenses, transfers, renewals and for endorsements, petitions, and other necessary documents. (Eff. 12/28/2016, Register 220)

Authority: AS 17.38.140 AS 17.38.150 AS 17.38.190

3 AAC 306.935. Conduct of board meetings. (a) The board will, at the first meeting of each calendar year, select a chair from among its members to preside over board meetings during the ensuing year.

(b) The board will meet at the call of the chair after reasonable public notice is given.

(c) For the purposes of ^{AS 17.38.111(b)} AS 17.38.093(b), the whole membership is all persons appointed and serving as members of the board.

(d) The director is responsible for preparing an informative agenda for each board

meeting. A copy of the agenda ^{must} will be available for inspection by persons who request it. (Eff. 12/23/2016, Register 220)

Authority: AS 17.38.111 AS 17.38.150 AS 17.38.190
AS 17.38.121

3 AAC 306.940. Public comment at board meetings. (a) At its public meetings, the

board will receive public comment upon items of agenda business and other issues of public

interest related to commercial marijuana establishments, including the conduct of business by

~~licensees and the compliance by licensees and others with the statutes and regulations related to~~

Withdrawn.
ACR
11/23/2016

~~commercial marijuana establishments. Public comment may also be submitted to the board in writing by any person at any time, however comment on a proposed regulation must be made within the time provided in the public notice for the proposed regulation.~~

(b) The right to be heard provided for in this section does not constitute intervention in a proceeding or exhaustion of an administrative remedy. 9

Withdrawn.

ACR 11/23/2016

MEMORANDUM


State of Alaska Department of Law

To: Hon. Byron Mallott
Lieutenant Governor

Date: November 23, 2016

File No.: JU2016200436 (Part 1)

Tel. No.: 465-3600

From: Steven C. Weaver 
Sr. Assistant Attorney General
and Assistant Regulations Attorney
Legislation and Regulations Section

Marijuana Control Board regulations
re: board administration (3 AAC
306.925 - 3 AAC 306.935))

We have reviewed the attached regulations from the Marijuana Control Board against the statutory standards of the Administrative Procedure Act. I have reviewed this project under a specific delegation dated November 22, 2016 from the regulations attorney. The regulations address board administration. We have received confirmation from board staff to defer, to a Part 2 of this project, our review of proposed 3 AAC 306.940, pending additional board work on that section.

We find no legal problems with Part 1 of the regulations. Though the attached affidavit of agency record refers to the Alcohol and Marijuana Control Office keeping the record of use or rejection of public comments, that office serves as support staff to the Marijuana Control Board: the agency that considers public comments and formally keeps the record of public comments. The certification of adoption order indicates that the board considered public comments for this project. The informal reference in the affidavit to the board's support staff is not a substantive violation of the Administrative Procedure Act. Also, though the title of the certification of adoption order reads "Alcoholic Beverage Control Board", the substantive body of the order plainly states that the adopting body is the Marijuana Control Board, as does the accompanying affidavit of board action and informal minutes. The clerical error in the title of the certification of adoption order is not a substantive violation of the Administrative Procedure Act.

This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations.

The May 13, 2016 public notice and the October 27, 2016 certification of adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

Hon. Byron Mallott, Lieutenant Governor
Our file: JU2016200436 (Part 1)

November 23, 2016
Page 2

We have made some technical corrections to the regulations in accordance with AS 44.62.125, as shown on the attached copy.

SCW

cc w/enc: (via email)

Cynthia Franklin, Executive Director
Alcoholic Beverage Control Board and Marijuana Control Board

Micaela Fowler, Regulations Contact
Department of Commerce, Community, and Economic Development

Sarah Oates
Alcohol and Marijuana Control Office
Department of Commerce, Community, and Economic Development

Harriet Dinegar Milks, Assistant Attorney General
Commercial and Fair Business Section

MEMORANDUM


State of Alaska Department of Law

TO: Hon. Byron Mallott
Lieutenant Governor

DATE: November 22, 2016

FILE NO.: JU2016200436 (Part 1)

TELEPHONE NO.: 465-3600

FROM: Susan R. Pollard 
Chief Assistant Attorney General
& Regulations Attorney
Legislation/Regulations Section

SUBJECT: Specific delegation of authority
regarding regulations review on
Marijuana Control Board
regulations re: board
administration (3 AAC
306.925 - 3 AAC 306.935)

By this memorandum, I am delegating my authority as Regulations Attorney under AS 44.62 to Assistant Attorney General Steven C. Weaver for the above-referenced regulations project. Under this delegation of authority, Steven Weaver has my full authority under AS 44.62 to conduct the legal review under AS 44.62 and take necessary actions on this regulations project.

If you have questions, please let me know.

SCW

cc w/enc: Scott C. Meriwether, AAC Coordinator
Office of the Lieutenant Governor

Steven C. Weaver
Sr. Assistant Attorney General &
Assistant Regulations Attorney
Legislation/Regulations Section—Juneau

AFFIDAVIT OF BOARD ACTION

I, Cynthia Franklin, Director for the Marijuana Control Board, being duly sworn, state the following:

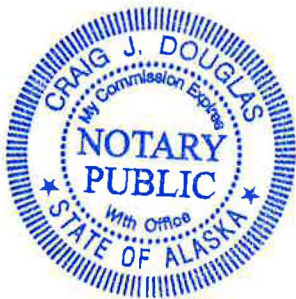
The attached motion, reflected in the attached board minutes of the Marijuana Control Board dealing with Board Administration in 3 AAC 306.925-940 was passed by the Marijuana Control Board during its July 7, 2016 regular meeting.

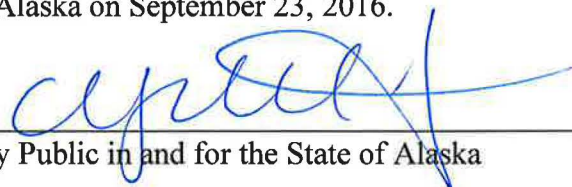
Date: September 23, 2016



Cynthia Franklin, Director

Subscribed and sworn to before me at Anchorage, Alaska on September 23, 2016.





Notary Public in and for the State of Alaska

JULY 7, 2016 MARIJUANA CONTROL BOARD MEETING RAW MINUTES

***Meeting minutes are 37 minutes fast (actual start time is 9:16am)**

Call to Order

9:53:52 AM

Peter Mlynarik
Mark Springer
Brandon Emmett
Bruce Schulte
Loren Jones (telephonic)
Cynthia Franklin
Harriet Milks
Sarah Oates

Approval of Agenda

9:54:16 AM

Mark Springer motions to approve the agenda.
Brandon Emmett seconds the motion.
None opposed.

Mark Springer motions to strike C2 from the agenda, as he did not provide draft language.
Brandon Emmett seconds the motion.
None opposed.

Brandon Emmett motions to strike C4 from the agenda, as he did not provide draft language.
Mark Springer seconds the motion.
None opposed.

Bruce Schulte motions to strike C7 from the agenda, as he did not provide draft language.
Brandon Emmett seconds the motion.
None opposed.

Harriet Milks informs the Chair that when a member is on the phone, he will need to be asked directly if he has any opposition.

Peter Mlynarik requests that the motions be combined into one to strike C2, C4, and C7 from the agenda.
Brandon Emmett seconds the motion.
Motion carries unanimously.

Brandon Emmett makes the motion.

Mark Springer seconds the motion.

Mark Springer requests that we add a period of time for public testimony regarding inspections. He additionally states that technically, the board will be considering Enforcement Updates to be unfinished and moving it to tomorrow after proposed regulations projects.

Motion carries unanimously.

Administrative Draft Regulation

10:16:34 AM

Brandon Emmett motions to strike "*If necessary, the director shall cast a tie-breaking vote with the consent of the board executed at the beginning of the meeting.*" from 3 AAC 306.935(c).

Mark Springer seconds the motion.

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

The board considers written public comments received.

Mark Springer motions to adopt 3 AAC 306.925 – 940 (Tab 4).

Brandon Emmett seconds the motion.

Mark Springer clarifies that the motion is to adopt as amended.

Motion carries unanimously.

On-Site Consumption Endorsement Draft Regulation

10:29:50 AM

Brandon Emmett motions to adopt 3 AAC 306.365 and 3 AAC 306.990 (Tab 6).

Bruce Schulte seconds the motion.

The board considers written public comments received and discusses the draft.

Loren Jones states that he cannot support this draft, as he doesn't feel like it will hold up legally.

Harriett Milks reminds the board that their authority to regulate marijuana is very broad, and that they have the authority to define "public". She additionally states that she believes that the statute, specifically AS 17.38.121(c), contemplates some form of on-site consumption, and that this is a defensible regulation under the law.

Brandon Emmett's motion fails, 2-3 (Brandon Emmett and Bruce Schulte vote Yes).

Bruce Schulte asks Harriett Milks what the next step procedurally would be.

Harriett Milks informs the board that procedurally, the next step would be to submit new drafts or make changes to the existing draft, and that the one thing that is for certain is that a draft will have to go back out for public comment.

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, Cynthia A. Franklin, Director of the Alcohol and Marijuana Control Office, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 3 AAC 306.925-940 has been given by being

- (1) published in a newspaper or trade publication;
- (2) furnished to interested persons;
- (3) furnished to appropriate state officials;
- (4) furnished to the Department of Law, along with a copy of the proposed regulation;
- (5) furnished electronically to incumbent State of Alaska legislators;
- (6) furnished to the Legislative Affairs Agency, Division of Legal and Research Services;
- (7) posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1);
- (8) furnished electronically, along with a copy of the proposed regulation, to the Legislative Affairs Agency, the chair of the Labor and Commerce Committee of the Alaska Senate and House of Representatives, the Administrative Regulation Review Committee, and the legislative council.

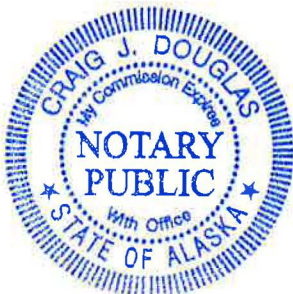
As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (5) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

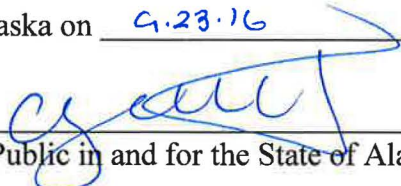
Date: September 23, 2016



Cynthia A. Franklin, Director

Subscribed and sworn to before me at Anchorage, Alaska on 9.23.16.





Notary Public in and for the State of Alaska

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Cynthia A. Franklin, Director for the Alcohol and Marijuana Control Office, being duly sworn, state the following:

In compliance with AS 44.62.215, the Alcohol and Marijuana Control Office has kept a record of its use or rejection of factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Alcohol and Marijuana Control Office regulations on Administration of the Marijuana Control Board.

Date: October 27, 2016

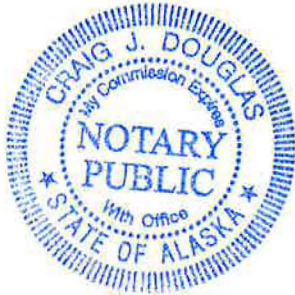


Cynthia A. Franklin, Director

Subscribed and sworn to before me at Anchorage, Alaska on October 27, 2016.



Notary Public in and for the State of Alaska



NOTICE OF PROPOSED REGULATIONS
REGARDING ADMINISTRATION OF THE MARIJUANA CONTROL BOARD
MARIJUANA CONTROL BOARD

The Marijuana Control Board proposes to adopt regulations to amend 3 AAC 306.900. These proposed regulations relate to administration of the Marijuana Control Board

The Marijuana Control Board proposes to adopt regulations in Title 3 of the Alaska Administrative Code, dealing with Administration of the board, including the following:

- (1) 3 AAC 306.925 – Submissions to the board regulations are proposed as follows:

The regulations consist of a series of provisions establishing administrative procedures for submissions to the board, rules regarding the management of staff, rules regarding the conduct of board meetings and rules regarding public comment at board meetings.

You may comment on the proposed regulations, including the potential costs to private persons of complying with the proposed regulations, by submitting written comments to John Calder, AMCO (Alcohol & Marijuana Control Office) at 550 W. 7th Ave, Suite 1600, Anchorage, AK 99501. Additionally, the Marijuana Control Board will accept comments by electronic mail at john.calder@alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System, by accessing this notice on the system and using the "comment" link. Please indicate the article and section number to which each comment refers, if applicable. **Please indicate in the subject line that you are commenting on the Administration of the Marijuana Control Board. The comments must be received no later than 4:30 p.m. on June 21, 2016.**

You may submit written questions relevant to the proposed regulations to John Calder by email and physical address. Please do not submit questions through the Alaska Online Public Notice System. The questions must be received at least 10 days before the end of the public comment period, by June 11, 2016 at 4:30 p.m. The Marijuana Control Board will aggregate its response to substantially similar questions and make the questions and response available on the Marijuana Control Board website. The Marijuana Control Board may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact John Calder at (907) 269-0350 no later than June 11, 2016 to ensure that any necessary accommodations can be provided.

A copy of the proposed regulations are available through the electronic link to the complete text on the Alaska Online Public Notice System, on the Alcohol & Marijuana Control Office website at <https://www.commerce.alaska.gov/web/amco/> and by contacting John Calder at 550 W. 7th Ste 1600, Anchorage, AK 99501.

After the public comment period ends, the Marijuana Control Board will either adopt the proposed regulations or other provisions dealing with the same subject, without further notice, or decide to take no

action. The language of the final regulations may be different from that of the proposed regulations. You should comment during the time allowed if your interests could be affected.

Statutory Authority: AS 17.38.090

Statutes Being Implemented, Interpreted, or Made Specific: AS 17.38.090

Fiscal Information: The proposed regulations are not expected to require an increased appropriation.

DATE: May 12, 2016

A handwritten signature in dark ink, appearing to read "Cynthia A. Franklin", is written over a horizontal line.

Cynthia A. Franklin, Director
Marijuana Control Board

ADDITIONAL REGULATIONS NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Marijuana Control Board
2. General subject of regulation: Administration of the board
3. Citation of regulation (may be grouped): 3 AAC 306.925 - 306.940
4. Department of Law file number, if any: _____

5. Reason for the proposed action:
- ☐ Compliance with federal law or action (identify): _____
- ☒ Compliance with new or changed state statute
- ☐ Compliance with Federal or state court decision (identify) _____
- ☐ Development of program standards
- ☐ Other (identify): _____

6. Appropriation/Allocation: _____

7. Estimated annual costs in the aggregate to comply with the proposed action to:
- Private Persons: \$0
- Other State Agencies: \$0
- Municipalities: \$0

8. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year FY <u>15</u>	Subsequent Years
Operating Cost	<u>\$ 0</u>	<u>\$ 0</u>
Capital Cost	<u>\$ 0</u>	<u>\$ 0</u>
1002 Federal receipts	<u>\$ 0</u>	<u>\$ 0</u>
1003 General fund match	<u>\$ 0</u>	<u>\$ 0</u>
1004 General fund	<u>\$ 0</u>	<u>\$ 0</u>
1005 General fund/ program	<u>\$ 0</u>	<u>\$ 0</u>
1037 General fund/ mental health	<u>\$ 0</u>	<u>\$ 0</u>
Other	<u>\$ 0</u>	<u>\$ 0</u>

9. The name of the contact person for the regulations:
- Name: Cynthia A. Franklin
- Title: Director, Marijuana Control Board

Address: 550 W. 7th Avenue, Suite 1600
Anchorage, AK 99501

Telephone: (907)269-0350
E-mail address Cynthia.franklin@alaska.gov

10. The origin of the proposed action:

- ☒ Staff of state agency
☐ Federal government
☐ General public
☐ Petition for regulation change
☐ Other (identify) _____

11. Date: 05/12/2016

Prepared by: 
[signature]

Name (printed): Cynthia A. Franklin
Title (printed): Director, Marijuana Control Board
Telephone: (907)269-0350

270221
#1386150
\$398.42

AFFIDAVIT OF PUBLICATION

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Emma Dunlap
being first duly sworn on oath
deposes and says that she is
a representative of the
Alaska Dispatch News, a
daily newspaper. That said
newspaper has been approved
by the Third Judicial Court,
Anchorage, Alaska, and it now
and has been published in the
English language continually as a
daily newspaper in Anchorage,
Alaska, and it is now and during
all said time was printed in an
office maintained at the aforesaid
place of publication of said
newspaper. That the annexed is
a copy of an advertisement as it
was published in regular issues
(and not in supplemental form)
of said newspaper on

May 13, 2016

and that such newspaper was
regularly distributed to its
subscribers during all of said
period. That the full amount of
the fee charged for the foregoing
publication is not in excess of
the rate charged private individuals.

Signed

Emma Dunlap

Subscribed and sworn to before

me this

23

day of

Sept

20

Bretnay Thompson

Notary Public in and for
The State of Alaska,
Third Division

Anchorage, Alaska

MY COMMISSION EXPIRES

2/23/2019
Notary Public
BRETNAY L. THOMPSON
State of Alaska
My Commission Expires Feb 23, 2019

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Statutory Authority: AS 17.38.090

Statutes Being Implemented, Interpreted, or Made Specific: AS 17.38.090

Fiscal Information: The proposed regulations are not expected to require an increased appropriation.

DATE: May 12, 2016

Cynthia A. Franklin, Director
Marijuana Control Board

AO-08-16-025
Published: May 13, 2016