

Byron Mallott
Lieutenant Governor
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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

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

FROM: Scott Meriwether, Office of the Lieutenant Governor
465.4081

A handwritten signature in blue ink, appearing to be "Scott Meriwether".

DATE: April 25, 2018

RE: Filed Permanent Regulations: Marijuana Control Board

Marijuana Control Board: Regulations re: quality control samples and reporting theft and similar activities on licensed premises (3 AAC 306.460(d); 3 AAC 306.557; 3 AAC 306.715(e))

Attorney General File:	JU2017200542
Regulation Filed:	4/25/2018
Effective Date:	5/25/2018
Print:	226, July 2018

cc with enclosures: Linda Miller, Department of Law
Judy Herndon, LexisNexis

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF THE MARIJUANA CONTROL BOARD

The attached three pages of regulations, dealing quality control of marijuana and reporting of a crime on the licensed premises, are certified to be a correct copy of the regulation changes that the Marijuana Control Board adopted at its November 29, 2017 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: 2/13/18



Erika McConnell, Director

FILING CERTIFICATION

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

April 25, 2018 at 9 A.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.



Lieutenant Governor

Effective: May 25, 2018.

Register: 226, July 2018

3 AAC 306.460 is amended by adding a new subsection to read:

(d) A ~~licensed~~ ^{who} marijuana cultivation facility may provide a sample of marijuana to an employee of the facility, ~~that~~ ^{who} is in possession of a valid marijuana handler card for the purpose of quality control only if ^{do}

(1) samples provided to employees for quality control ~~does~~ ^{do} not exceed a cumulative total of one ounce per 30-day period;

(2) each sample is registered and tracked using the marijuana inventory tracking system in accordance with 3 AAC 306.730;

(3) consumption of marijuana does not occur on the licensed premises;

^{provided under this subsection} (4) no sample is ~~resold~~ ^{or given} to another licensee or consumer;

(5) each employee who receives a marijuana sample for the purpose of quality control completes a quality control form ^{approved} ~~prescribed~~ by the board for each sample; ~~and~~

(6) the licensee maintains copies of completed forms required under (5) of this subsection in accordance with 3 AAC 306.755 ^{is; and}

^{samples} (7) ~~marijuana~~ ^{are} that leaves ^{is} the licensed premises ~~must be~~ packaged in opaque, resealable, child-resistant packaging and clearly marked or labeled "For Quality Control" and the packaging ~~must be~~ ^{is} designed or constructed to be significantly difficult for children under five years of age to open, but not normally difficult for adults to use properly. (Eff. 5/25/2018)

Register 226)

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 is amended by adding a new section to read:

3 AAC 306.557, Quality Control sampling, ^{(((lowercase)))} (a) A ^{(((add the period)))} licensed marijuana product manufacturing facility may provide a sample of marijuana concentrate or other marijuana product to an employee of the facility, ^{who} ~~that~~ is in possession of a valid marijuana handler card for the purpose of quality control only if:

^{(((lowercase)))} (1) Samples provided to employees for quality control do not exceed a cumulative total set out in 3 AAC 306.355 in a 30-day period;

(2) each sample is registered and tracked using the marijuana inventory tracking system in accordance with 3 AAC 306.730;

^{provided under this section} (3) consumption of marijuana does not occur on the licensed premises;

^{or given} (4) no sample is ~~resold~~ to another licensee or consumer;

(5) each employee who receives a marijuana sample for the purpose of quality control completes a quality control form ^{approved} ~~prescribed~~ by the board for each sample; ~~and~~

(6) the marijuana cultivation facility licensee maintains copies of completed forms required under (5) of this subsection in accordance with 3 AAC 306.755 ^{and};

^{samples} (7) ~~marijuana~~ that leaves ^{are} ~~must be~~ packaged in opaque, resealable, child-resistant packaging and clearly marked or labeled "For Quality Control" and the packaging ^{is} ~~must be~~ designed or constructed to be significantly difficult for children under five years of age to open, but not normally difficult for adults to use properly. (Eff. 5/25/2018)

Register 226)

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 306.715 is amended by adding a new subsection to read:

(e) A marijuana establishment ^{shall} will notify the ^{Department of Commerce, Community, and Economic Development,} Alcohol and Marijuana Control Office as soon ^{any} ^{not} as reasonably practical and in ~~no~~ case more than 24 hours after any unauthorized access to the premises or the establishment's knowledge of evidence or circumstances that reasonably indicate theft, diversion or unexplained disappearance of marijuana, marijuana products, or money from the licensed premises. (Eff 2/21/2016, Register 217; am 5/25/2018, Register 226)

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

MEMORANDUM

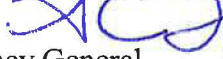
State of Alaska
Department of Law

To: Hon. Byron Mallott
Lieutenant Governor

Date: April 24, 2018

File No.: JU2017200542

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: quality control samples and
reporting theft and similar activities on
licensed premises (3 AAC 306.460(d);
3 AAC 306.557; 3 AAC 306.715(e))

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 April 23, 2018 from the regulations attorney. The regulations establish procedures and requirements for a marijuana cultivation facility or a marijuana product manufacturing facility to provide to an employee of the facility, for purposes of quality control, a sample of the marijuana cultivated or of the concentrate or other marijuana product produced. The regulations also establish requirements for reporting--to the Department of Commerce, Community, and Economic Development, Alcohol and Marijuana Control Office--possible theft or similar activities on the licensed premises of a marijuana establishment.

We find no legal problems with the regulations. 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 August 20, 2017 public notice and the February 13, 2018 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: JU2017200542

April 24, 2018
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)

Erika McConnell, Executive Director
Alcoholic Beverage Control Board and Marijuana Control Board

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

Jedediah Smith
Alcohol and Marijuana Control Office
Department of Commerce, Community, and Economic Development

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

MEMORANDUM

State of Alaska Department of Law

TO: Hon. Byron Mallott
Lieutenant Governor

DATE: April 23, 2018

FILE NO.: JU2017200542

TELEPHONE NO.: (907) 465-3600

FROM: Susan R. Pollard *SRP*
Chief Assistant Attorney General
and Regulations Attorney
Legislation/Regulations Section

SUBJECT: Specific delegation of authority
regarding regulations review on
Marijuana Control Board
regulations re: quality control
samples and reporting theft and
similar activities on licensed
premises (3 AAC 306.460(d);
3 AAC 306.557; 3 AAC
306.715(e))

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 and
Assistant Regulations Attorney
Legislation/Regulations Section

NOTICE OF PROPOSED CHANGES ON THE DISPOSAL OF MARIJUANA WASTE,
QUALITY CONTROL OF MARIJUANA, AND REPORTING UNAUTHORIZED ACCESS
TO A LICENSED MARIJUANA FACILITY IN THE REGULATIONS OF THE MARIJUANA
CONTROL BOARD

The Marijuana Control Board proposes to adopt regulation changes in 3 AAC 306 of the Alaska Administrative Code, dealing with disposal of marijuana waste, quality control samples of marijuana, and reporting of unauthorized access to a licensed marijuana establishment, including the following:

- (1) 3 AAC 306.460 and 3 AAC 306.557 are proposed new subsections allowing marijuana licensees to give small amounts of marijuana to employees for the purpose of quality control testing.
- (2) 3 AAC 306.660, and 3 AAC 306.740 are proposed changes to the notification requirements for disposal of waste of marijuana or marijuana products.
- (3) 3 AAC 306.715 is proposed to require a marijuana establishment to notify the Marijuana Control Board of unauthorized access to the licensed premises.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to the Alcohol & Marijuana Control Office at 550 West 7th Avenue, Suite 1600, Anchorage, AK 99501. Additionally, the Marijuana Control Board will accept comments by electronic mail at amco.regs@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. The comments must be received not later than 4:30 pm on September 29, 2017.

You may submit written questions relevant to the proposed action to the Marijuana Control Board by email at amco.regs@alaska.gov or at 550 West 7th Avenue, Suite 1600, Anchorage, AK 99501. The questions must be received at least 10 days before the end of the public comment period. The Marijuana Control Board will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Jedediah Smith at amco.regs@alaska.gov or (907) 269-0350 not later than September 22, 2017 to ensure that any necessary accommodation can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting the Alcohol & Marijuana Control Office at (907) 269-0350 or amco.regs@alaska.gov.

After the public comment period ends, the Marijuana Control Board will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further

notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. You should comment during the time allowed if your interests could be affected. Written comments received are public records and are subject to public inspection.

Statutory 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

Statutes being implemented, interpreted, or made specific: AS 17.38.070 AS 17.38.200 AS 17.38.210

Fiscal information: The proposed regulation changes are not expected to require an increased appropriation.

Date: August 16, 2017

A handwritten signature in black ink that reads "Erika McConnell". The script is cursive and fluid.

Erika McConnell, director

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Marijuana Control Board
2. General subject of regulation: quality control samples, waste disposal, reporting of crime.
3. Citation of regulation (may be grouped): 3 AAC 306.460, 3 AAC 306.557; 3 AAC 306.660; 3 AAC 306.740; 3 AAC 306.715
4. Department of Law file number, if any: JU2017200542

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: \$0

7. Estimated annual cost to comply with the proposed action to:

A private person: \$0

Another state agency: \$0

A municipality: \$0

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

	Initial Year FY 18	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>
Other (identify)	\$ <u>0</u>	\$ <u>0</u>

9. The name of the contact person for the regulation:

Name: Jedediah Smith

Title: Local Government Specialist

Address: 550 West 7th Ave, Suite 1600 Anchorage, AK 99501

Telephone: (907) 269-0350

E-mail address: amco.regs@alaska.gov

10. The origin of the proposed action:

☐ Staff of state agency

☐ Federal government

☐ General public

☐ Petition for regulation change

☒ Other (identify): Marijuana Control Board

11. Date: August 15, 2017

Prepared by:



Name (printed): Jedediah Smith

Title (printed): Local Government Specialist

Telephone: (907) 269-0350

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, Erika McConnell, 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 306.460 and 3 AAC 306.557 regarding quality control samples of marijuana, and 3 AAC 306.715, regarding reporting of a crime on a licensed premises, 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.

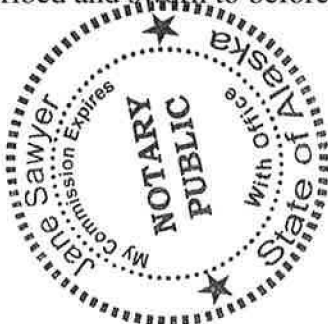
As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (5) and (6) of the list above. The additional regulation notice information also has been posted on the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

Date: 3/1/18

Erika McConnell

Erika McConnell, Director
Alcohol and Marijuana Control Office

Subscribed and sworn to before me at Anchorage, Alaska, on March 1, 2018.



Jane Sawyer

Notary Public in and for the State of Alaska

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Erika McConnell, 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 Marijuana Control Board regulations regarding quality control samples and the reporting of a crime on the licensed premises.

Date: 3/1/18

Erika McConnell

Erika McConnell, Director
Alcohol and Marijuana Control Office

Subscribed and sworn to before me at Anchorage, Alaska, on March 1, 2018.
(date)



Jane Sawyer

Notary Public in and for the State of Alaska

270221
#1409320
\$333.66

AFFIDAVIT OF PUBLICATION

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Joleesa Stepetin
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

August 20, 2017

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

Joleesa Stepetin

Subscribed and sworn to before

me this 1 day of Feb

20 18

Britney Thompson

Notary Public in and for
The State of Alaska.
Third Division
Anchorage, Alaska
MY COMMISSION EXPIRES

2/23/2019



NOTICE OF PROPOSED CHANGES ON THE DISPOSAL OF MARIJUANA WASTE, QUALITY CONTROL OF MARIJUANA, AND REPORTING UNAUTHORIZED ACCESS TO A LICENSED MARIJUANA FACILITY IN THE REGULATIONS OF THE MARIJUANA CONTROL BOARD

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A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting the Alcohol & Marijuana Control Office at (907) 269-0350 or amco.regs@alaska.gov.

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Statutory 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

Statutes being implemented, interpreted, or made specific: AS 17.38.070 AS 17.38.200 AS 17.38.210

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

Date: August 16, 2017
Erika McConnell, director

Published: August 20, 2017

AFFIDAVIT OF MARIJUANA CONTROL BOARD ACTION

I, Erika McConnell, Director of the Alcohol and Marijuana Control Office, being duly sworn, state the following:

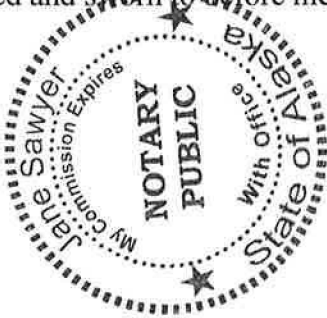
The attached motions dealing with proposed regulations regarding quality control samples and reporting of a crime on the licensed premises, were passed by the Marijuana Control Board during its November 29, 2017, meeting.

Date: 3/1/18

Erika McConnell

Erika McConnell, Director
Alcohol and Marijuana Control Office

Subscribed and sworn to before me at Anchorage, Alaska, on March 1, 2018.
(date)



Jane Sawyer

Notary Public in and for the State of Alaska



**Marijuana Control Board
Meeting Excerpt
November 29, 2017**

● **REGULATIONS**

A. Quality Control; Waste Disposal (#2); Notify AMCO of Crime on Premises

TAB 66

Status: Comment period closed September 29, 2017

Potential Board Actions: Vote to adopt; OR
Substantially amend and put out for public comment

Board member Brandon Emmett motions to adopt proposed regulation changes to 3 AAC 306.460 and 3 AAC 306.557, regarding quality control of marijuana. Member Mark Springer seconds the motion.

Motion passes 4-1. Peter Mlynarik votes no.

Board member Brandon Emmett motions to adopt proposed regulation changes to 3 AAC 306.715 regarding reporting of a crime on a licensed marijuana premises. Member Mark Springer seconds the motion.

Motion Passes 5-0.