

Byron Mallott
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
907.465.3520
WWW.LTGOV.ALASKA.GOV




530 West 7th Ave, Suite 1700
Anchorage, Alaska 99501
907.269.7460
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Linda Mattson
Department of Commerce, Community and Economic Development

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: September 27, 2018

RE: Filed Permanent Regulations: Marijuana Control Board

Marijuana Control Board regulation re: retests for failed materials and waste disposal (3 AAC 306.660; 3 AAC 306.740)

| | |
|------------------------|-------------------|
| Attorney General File: | 2018200397 |
| Regulation Filed: | 9/20/2018 |
| Effective Date: | 10/20/2018 |
| Print: | 228, January 2019 |

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 with the waste disposal of marijuana, is certified to be a correct copy of the regulation changes that the Marijuana Control Board adopted at its June 15, 2018, 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.

Although no public comments were received, 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: 9/10/18

Erika McConnell

Erika McConnell, Director

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on September 20, 2018 at 1045A .m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.



Lieutenant Governor

Effective: October 20, 2018.

Register: 228, January 2019.

9

3 AAC 306.660 is amended to read:

3 AAC 306.660. Failed materials; retests

(a) If a sample tested by a marijuana testing facility does not pass the required tests based on the standards set out in 3 AAC 306.645, including a visual foreign matter inspection, the marijuana establishment that provided the sample shall

in accordance with 3 AAC 306.740,

(1) dispose of the entire harvest batch or production lot from which the sample was taken in accordance with 3 AAC 306.740, and

(2) document the disposal of the sample using the marijuana establishment's marijuana inventory tracking system.

(b) If a sample of marijuana fails a required test, any marijuana plant trim, leaf, and other usable material from the same plants automatically fail the required test. The board or director may approve a **written request, on a form prescribed by the board,** to allow a batch of marijuana that fails a required test to be used to make a carbon dioxide- or solvent-based extract. After processing, the carbon dioxide- or solvent-based extract must pass all required tests.

(c) If a marijuana cultivation facility or a marijuana product manufacturing facility **submits a written request on a form prescribed by the board** [PETITIONS] for a retest of marijuana or a marijuana product that failed a required test, the board or director may authorize a

retest to validate the test results. The marijuana cultivation facility or a marijuana product manufacturing facility shall pay all costs of a retest. (am 10/20/2018, Register 228)

Eff. 2/21/2016, Register 217; am 7/5/2017, Register 223;

- Authority:
- AS 17.38.010 AS 17.38.150 AS 17.38.200
 - (17.38.070) AS 17.38.070 AS 17.38.190 AS 17.38.900
 - AS 17.38.121

3 AAC 306.740 is amended to read:

3 AAC 306.740 Waste Disposal. (a) A marijuana establishment shall store, manage, and dispose of any solid or liquid waste, including wastewater generated during marijuana cultivation production, processing, testing, or retail sales, in compliance with applicable federal, state, and local statutes, ordinances, regulations, and other law.

(b) Marijuana waste must be rendered unusable for any purpose for which it was grown or produced before it leaves a marijuana establishment. Marijuana waste includes

(1) marijuana plant waste, including, [ROOTS,] stalks, leaves, and stems that have not been processed with solvent;

(2) solid marijuana sample plant waste in the possession of a marijuana testing facility;

(3) marijuana or marijuana product that has been deemed by the licensee unfit for sale or consumption;

(4) expired marijuana products; and

(5) other waste as determined by the board.

(c) A marijuana establishment shall

(1) [IN THE MARIJUANA INVENTORY TRACKING SYSTEM REQUIRED UNDER 3 AAC 306.730,] give the board notice on a form prescribed by the board not later than three days before making the waste unusable and disposing of it; however, the director may authorize immediate disposal on an emergency basis; [and]

(2) record the waste in the marijuana inventory tracking system required under 3 AAC 306.730; and

marijuana

~~(3)~~ ⁽²⁾ keep a record through the inventory tracking system of the final destination of marijuana waste made unusable.

(d) Marijuana plant waste must be made unusable by grinding the marijuana plant waste and mixing it with at least an equal amount of other compostable or non-compostable materials. A marijuana establishment may use another method to make marijuana waste unusable if the board approves the method in advance. Material that may be mixed with the marijuana waste includes

(1) compostable materials including food waste, yard waste, vegetable based grease or oils, or other wastes approved by the board when the mixed material can be used as compost feedstock or in another organic waste method such as an anaerobic digester with approval of any applicable local government entity; or

(2) non-compostable materials including paper waste, cardboard waste, plastic waste, oil, or other wastes approved by the board when the mixed material may be delivered to a permitted solid waste facility, incinerator, or other facility with approval of any applicable local government entity.

(e) If marijuana or a marijuana product is found by, or surrendered to, a law enforcement officer including a peace officer or an airport security officer, the officer may dispose of the marijuana or marijuana product as provided in this section or by any method that is allowed under any applicable local ordinance. (Eff. 2/21/2016, Register 217; am 10/20/2018,

Register 228)

| | | | |
|------------|--------------|--------------|--------------|
| 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: The Honorable Byron Mallott
Lieutenant Governor

Date: September 19, 2018

File No.: 2018200397

Thru:

Tel. No.: 465-3600

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

Re: Marijuana Control Board regulations
re: retests for failed materials and
waste disposal (3 AAC 306.660;
3 AAC 306.740)

The Department of Law has reviewed the attached regulations of the Marijuana Control Board against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. I have reviewed this project under a general delegation dated December 5, 2014 from the Regulations Attorney. 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 regulations were adopted by the Marijuana Control Board after the close of the public comment period. The regulations clarify how a licensee may request a retest for marijuana or a marijuana product that failed a required test, how a licensee may request that failed materials be used to make extract, and how a licensee is to dispose of batches and production lots from which samples have failed.

The May 3, 2018 public notice and the September 10, 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.

We have made some technical corrections to conform the regulations in accordance with AS 44.62.125. The corrections are shown on the attached copy of the regulations.

SCW

cc: Erika McConnell, Director
Marijuana Control Board
Department of Commerce, Community, and Economic Development

Linda Mattson, Regulations Contact
Department of Commerce, Community, and Economic Development

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

April Simpson, Notary Administrator
Office of the Lieutenant Governor

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

MEMORANDUM

State of Alaska
Department of Law

To: The Honorable Byron Mallott
Lieutenant Governor

Date: December 5, 2014

From: Susan R. Pollard *Susan R. Pollard*
Chief Assistant Attorney General
and Regulations Attorney
Legislation and Regulations Section

Tel. No.: 465-3600

Re: Delegation of Authority for
Regulations Matters

In my absence, when I am traveling or otherwise out of the office, Senior Assistant Attorney General and Assistant Regulations Attorney Steven C. Weaver is designated as Acting Regulations Attorney. Under this delegation, Steve Weaver has my full authority under AS 44.62 to conduct the legal review of regulations or take necessary actions as Acting Regulations Attorney.

This delegation is effective immediately and is in effect until revoked by me.

If you have any questions, please let me know.

SRP/pav

cc: Scott Meriwether, AAC Coordinator
Office of the Lt. Governor

Jim Cantor, Deputy Attorney General
Civil Division

Nancy Gordon, Statewide Office Chief
Civil Division

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

Cori Mills, Assistant Attorney General
Legislation and Regulations Section

Linda Miller, Legal Editor
Legislation and Regulations Section

Lisa Rickey, Legal Editor
Legislation and Regulations Section

AFFIDAVIT OF MARIJUANA CONTROL BOARD ACTION

I, Erika McConnell, Director of the Marijuana Control Board, being duly sworn, state the following:

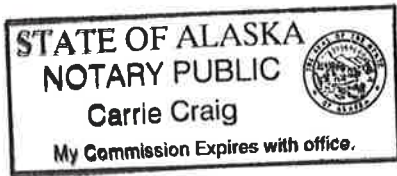
The attached motion dealing with regulation changes to waste disposal of marijuana was passed by the Marijuana Control Board during its June 15, 2018, meeting.

Date: 7/9/18

Erika McConnell

Erika McConnell, Director
Marijuana Control Board

Subscribed and sworn to before me at Anchorage, Alaska, on 7/9/18.
(date)



Carrie Craig
Notary Public in and for the State of Alaska



Marijuana Control Board
Excerpt from unapproved meeting minutes
June 15, 2018
Third Judicial District
Atwood Building
550 W. 7th Avenue, Rooms 102 & 104
Anchorage, Alaska

● **REGULATIONS**

1. Waste Disposal

3:47pm

TAB 15

Status: Comment period closed June 5, 2018
Potential Board Actions: Vote to adopt; OR
Substantially amend and put out for public comment

No public comments received to consider.

Loren Jones moves that the Board adopt the changes in this regulation project to 3 AAC 306.660 and 3 AAC 306.740.

Brandon Emmett seconds the motion.

Motion carries unanimously.

Minutes prepared by:

A handwritten signature in green ink, appearing to read "S. Oates".

Sarah D. Oates
Program Coordinator

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, Erika McConnell, Director of the Marijuana Control Board, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 3 AAC 306.660 and 3 AAC 306.740, regarding waste disposal of marijuana, 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.

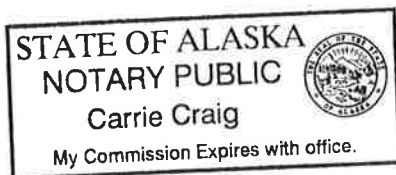
As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (5) and (6) of the list above. The additional regulation notice information also has been posted on the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

Date: 7/9/18

Erika McConnell

Erika McConnell, Director

Subscribed and sworn to before me at Anchorage, Alaska, on 7/9/18.



Carrie Craig

Notary Public in and for the State of Alaska

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Erika McConnell, Director of the Marijuana Control Board, being duly sworn, state the following:

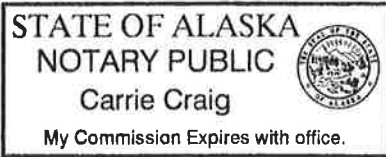
In compliance with AS 44.62.215, the Marijuana Control Board has kept a record of its use or rejection of factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Marijuana Control Board regulation on waste disposal of marijuana (3 AAC 306.660 and 3 AAC 306.740).

Date: 7/9/18

Erika McConnell

Erika McConnell, Director
Marijuana Control Board

Subscribed and sworn to before me at Anchorage, Alaska, on 7/9/18.
(date)



Carrie Craig
Notary Public in and for the State of Alaska

NOTICE OF PROPOSED CHANGES ON WASTE DISPOSAL
IN THE REGULATIONS OF THE MARIJUANA CONTROL BOARD

The State of Alaska MARIJUANA Control Board proposes to adopt regulation changes in 3 AAC 306 of the Alaska Administrative Code, dealing with waste disposal of marijuana, including the following:

3 AAC 306.660 is proposed to change the procedures under which marijuana licensees can petition the board for a retest of failed material.

3 AAC 306.740 is proposed to remove the word “roots” from the definition of marijuana waste, and expand the definition to include expired products, and those unfit for sale or consumption.

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 and 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 Tuesday, June 5, 2018.

You may submit written questions relevant to the proposed action to 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 Alcoholic Beverage Control Board will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and AMCO Website.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact the Alcohol and Marijuana Control Office at amco.regs@alaska.gov or call (907) 269-0350 not later than May 22, 2018, 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 and 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.

Statutory 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

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

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

Date: May 1, 2018

Erika McConnell

Erika McConnell, Director
Alaska Alcohol and Marijuana Control Office

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

- 1. Adopting agency: Marijuana Control Board
- 2. General subject of regulation: Waste disposal
- 3. Citation of regulation (may be grouped): 3 AAC 306.660; 3 AAC 306.740
- 4. Department of Law file number, if any: 2018200397

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 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):

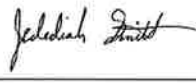
| | Initial Year FY <u>19</u> | Subsequent Years |
|-------------------------------|------------------------------|---------------------|
| Operating Cost | \$ <u>0</u> | \$ <u>0</u> |
| Capital Cost | \$ <u>0</u> | \$ <u>0</u> |
| 1002 Federal receipts | \$ <u>0</u> | \$ <u>0</u> |
| 1003 General fund 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> |
| 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: 4/25/2018 Prepared by: 

Name (printed): Jedediah Smith
Title (printed): Local Government Specialist
Telephone: (907) 269-0350

5/3

ANCHORAGE DAILY NEWS

AFFIDAVIT OF PUBLICATION

Account #: 270221

ST OF AK/ALCOHOL AND MARIJUANA
CONTROL BOARD
550 W 7TH AVE #1600
ANCHORAGE AK 99501

Order# 0001420812
Cost \$283.86

Product ANC-Anchorage Daily News
Placement 0300
Position 0301

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Joleesa Stepetin

being first duly sworn on oath deposes and says that he/she is a representative of the Anchorage Daily 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 03, 2018

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
Joleesa Stepetin

Subscribed and sworn to before me
this 3rd day of May, 2018

Britney Thompson
Notary Public in and for
The State of Alaska.
Third Division
Anchorage, Alaska

MY COMMISSION EXPIRES

2/23/2019

Notary Public
BRITNEY L. THOMPSON
State of Alaska
My Commission Expires Feb 23, 2019

**NOTICE OF PROPOSED CHANGES ON WASTE DISPOSAL
IN THE REGULATIONS OF THE MARIJUANA CONTROL BOARD**

The State of Alaska MARIJUANA Control Board proposes to adopt regulation changes in 3 AAC 306 of the Alaska Administrative Code, dealing with waste disposal of marijuana, including the following:

3 AAC 306.660 is proposed to change the procedures under which marijuana licensees can petition the board for a retest of failed material.

3 AAC 306.740 is proposed to remove the word "roots" from the definition of marijuana waste, and expand the definition to include expired products, and those unfit for sale or consumption.

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 and 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 Tuesday, June 5, 2018.

You may submit written questions relevant to the proposed action to 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 Alcoholic Beverage Control Board will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and AMCO Website.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact the Alcohol and Marijuana Control Office at amco.regs@alaska.gov or call (907) 269-0350 not later than May 22, 2018, 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 and 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.

Statutory 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

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

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

Date: May 1, 2018
Erika McConnell, director

Published: May 3, 2018

RECEIVED
MAY 07 2018
ALCOHOL MARIJUANA CONTROL OFFICE
STATE OF ALASKA