

Kevin Meyer
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
907.465.3520
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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 *AS*
465.4081

DATE: January 23, 2019

RE: Filed Permanent Regulations: Marijuana Control Board
Marijuana Control Board regulations re: expiration of public notices (3 AAC 306.025)

| | |
|------------------------|-----------------|
| Attorney General File: | 2018200820 |
| Regulation Filed: | 1/22/2019 |
| Effective Date: | 2/21/2019 |
| Print: | 229, April 2019 |

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

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF MARIJUANA CONTROL BOARD

The attached three pages of regulations, dealing with the expiration of public notice, are certified to be a correct copy of the regulation changes that the Marijuana Control Board adopted at its October 17, 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: 11/13/18



Erika McConnell, Director

FILING CERTIFICATION

I, ~~Valerie Nurt'araaluk Davidson~~ ^{Kevin Meyer}, Lieutenant Governor for the State of Alaska, certify that on January 22, 20 19 at 10:25 Am., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.



Lieutenant Governor

Effective: February 21, 2019

Register: 229, April 2019.

3 AAC 306.025 is amended to read:

3 AAC 306.025. Application procedure. (a) An applicant must initiate a new marijuana establishment license application on a form the board prescribes, using the board's electronic system.

(b) [AS SOON AS PRACTICAL AFTER] **After** initiating a new marijuana license application, the applicant must give notice of the application to the public by

(1) posting a copy of the application, on the form the board prescribes, for 10 days at

(A) the location of the proposed licensed premises; and

(B) one other conspicuous location in the area of the proposed premises;

(2) publishing an announcement once a week for three consecutive weeks in a newspaper of general circulation in the area; in an area where no newspaper circulates, the applicant must arrange for broadcast announcements on a radio station serving the local area where the proposed licensee seeks to operate twice a week for three successive weeks during triple A advertising time; the newspaper or radio notice must state

(A) the name of the applicant;

(B) the name and location of the proposed premises;

(C) the type of license applied for along with a citation to a provision of this chapter authorizing that type of license; and

(D) a statement that any comment or objection may be submitted to the board; and

(3) submitting a copy of the application on the form the board prescribes to

(A) each local government with jurisdiction over the licensed premises;

and

(B) any community council in the area of the proposed licensed premises.

(c) After the applicant completes the notice requirements in (b) of this section and submits each remaining application requirement listed in 3 AAC 306.020, the applicant must pay the application and **license**[LICENSING] fees set out in 3 AAC 306.100. **The notice requirements in (b) of this section must be given within the 90 days preceding the submittal of all application requirements listed in 3 AAC 306.020 and the application and license fee.**

[THE APPLICANT MUST THEN USE THE BOARD'S ELECTRONIC SYSTEM TO INFORM THE BOARD THAT THE APPLICANT HAS SUBMITTED A COMPLETE APPLICATION.]

(d) When the director receives an application for a marijuana establishment license, the director shall determine if the application is complete. Any application for a marijuana establishment license that the director receives without the application **and license** fee is incomplete. If the director determines the application is complete, the director shall immediately give written notice to: [;]

(1) the applicant;

(2) each local government with jurisdiction over the applicant's proposed licensed premises;

(3) the community council if the proposed licensed premises are located within the boundary of a community council established by municipal charter or ordinance; and

(4) any nonprofit community organization that has requested notification in writing.

(e) If an application for a marijuana establishment license is incomplete, the director shall notify the applicant by electronic mail at the address provided by the applicant and shall either

(1) return an incomplete application in its entirety; or

(2) request the applicant to provide additional identified items needed to complete the application.

(f) When the director informs an applicant that its application is incomplete as provided in (e) of this section, the applicant must complete the application not later than 90 days after the date of the director's notice. If an applicant fails to complete its application during the 90-day period after the director's notice, the applicant must file a new application and pay a new application fee to obtain a marijuana establishment license.

3 AAC 306.025 is amended by adding a new subsection to read:

(g) The director may, not less than 90 days after initiation of an application, inform

an applicant by electronic mail at the address provided by the applicant that missing

application requirements listed in 3 AAC 306.020 must be submitted within 90 days. If an

applicant fails to submit all missing application requirements during the 90-day period

after the director's notice, the applicant must file a new application and pay a new

application fee to obtain a marijuana establishment license. (Eff. 2/21/2016, Register 217;

am 12/28/2017, Register 224; am 2/21/2019, Register 229)

redefine and underline not necessary !!

| | | | |
|-------------------|--------------|--------------|--------------|
| 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 Kevin Meyer
Lieutenant Governor

Date: December 14, 2018

File No.: 2018200820

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: expiration of public notices
(3 AAC 306.025)

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 delegation dated December 3, 2018 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 concern applications for a marijuana establishment license, particularly the time period for the applicant to give required public notice, and the time period for an applicant with an incomplete application to make that application complete.

The September 5, 2018 public notice and the November 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.

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 w/enc: Hon. Julie Anderson, Commissioner
Department of Commerce, Community, and Economic Development

Erika McConnell, Director
Alcohol and Marijuana Control Office
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

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



THE STATE
of ALASKA
GOVERNOR BILL WALKER

Department of Law

CIVIL DIVISION

P.O. Box 110300
Juneau, Alaska 99811
Main: 907.465.3600
Fax: 907.465.2520

December 3, 2018

The Honorable Kevin Meyer
Lieutenant Governor
Alaska State Capitol Building, 3rd Floor
Juneau, AK 99801

Re: Regulations Approval Process; Delegation

As the Regulations Attorney, I work with your office on a regular basis as does Steven C. Weaver, Senior Assistant Attorney General and Assistant Regulations Attorney. Both Mr. Weaver and I review and approve regulations for filing by your office as required by AS 44.62.060.

Attached is a delegation of authority designating to Mr. Weaver, in my absence, full authority to conduct legal review of regulations, or take other necessary actions as Acting Regulations Attorney.

Also attached is a summary of the regulations process; I am available to provide more detail on any aspect of the regulations process.

Please let us know if there is anything we can do for you or your staff. We look forward to working with you.

Sincerely,

Handwritten signature of Susan R. Pollard in blue ink.

Susan R. Pollard
Chief Assistant Attorney General
and Regulations Attorney

Encl.
SRP/hjh

cc: April Simpson, AAC Coordinator
Office of the Lieutenant Governor

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

Linda Miller, Legal Editor
Legislation and Regulations Section

2018200636

NOTICE OF PROPOSED CHANGES TO THE REGULATIONS OF THE MARIJUANA
CONTROL BOARD REGARDING EXPIRATION OF PUBLIC NOTICE

The Marijuana Control Board proposes to adopt regulation changes in 3 AAC 306 of the Alaska Administrative Code, dealing with the expiration of public notice.

- 1) 3 AAC 306.025 is proposed to revise application procedures, including requiring applicant response within 90 days to request for missing application information.

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 October 7, 2018.

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 Alcohol & Marijuana Control Office 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 amco.regs@alaska.gov or (907) 269-0350 not later than September 27, 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 & 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 17.38.200

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

appropriation.

Date: August 30, 2018

Erika McConnell

Erika McConnell, director

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Marijuana Control Board
2. General subject of regulation: Expiration of public notice
3. Citation of regulation (may be grouped): 3 AAC 306.025
4. Department of Law file number, if any: To Be Assigned

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 <u>18</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: August 22, 2018

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 Marijuana Control Board, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to expiration of public notice regulations has been given by being

- (1) published in a newspaper or trade publication;
- (2) furnished to every person who has filed a request for notice of proposed action with the state agency;
- (3) furnished to appropriate state officials;
- (4) furnished to interested persons;
- (5) furnished to the Department of Law, along with a copy of the proposed regulation;
- (6) furnished electronically to incumbent State of Alaska legislators;
- (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).

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 (2), (4) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

Date: 11/13/18

Erika McConnell
Erika McConnell, Director

Subscribed and sworn to before me at Anchorage, Alaska, on 11/13/18.



[Signature]
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:

The Marijuana Control Board did not receive any factual or other substantive information that was submitted in writing or orally as public comment and that was relevant to the accuracy, coverage, or other aspect of the Marijuana Control Board regulation on expiration of public notice.

Date: 11/13/18

Erika McConnell
Erika McConnell, Director

Subscribed and sworn to before me at Anchorage, Alaska, on 11/13/18.



[Signature]
Notary Public in and for the State of Alaska

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# 0001427210
Cost \$313.74

Product ADN-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

September 05, 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 5th day of September, 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

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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.

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 17.38.200

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

Date: August 30, 2018
Erika McConnell, director

Published: September 5, 2018

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 expiration of public notice, was passed by the Marijuana Control Board during its October 17, 2018, meeting.

Date: 11/13/18

Erika McConnell
Erika McConnell, Director

Subscribed and sworn to before me at Anchorage, Alaska, on 11/13/18.

[Signature]
Notary Public in and for the State of Alaska





**Marijuana Control Board
DRAFT EXCERPT Meeting Minutes
October 17, 2018
Third Judicial District
145 Main Street Loop
Kenai, Alaska**

● **REGULATIONS**

| | | |
|------------------------------------|---|----------------------|
| Expiration of Public Notice | 4:08pm | <u>TAB 22</u> |
| Status: | Public comment period closed October 7, 2018 | |
| Potential Board Actions: | Vote to adopt; OR Substantially amend and put out for public comment | |

No public comments received.

Brandon Emmett moves to adopt (the expiration of public notice regulation project).

Nick Miller seconds the motion.

Motion carries unanimously.