

Kevin Meyer
Lieutenant Governor
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Anchorage, Alaska 99501
907.269.7460
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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Amy Demboski
Department of Commerce Community and Economic Development

FROM: April Simpson, Office of the Lieutenant Governor 465.4081 

DATE: February 24, 2020

RE: Filed Permanent Regulations: Marijuana Control Board

Marijuana Control Board regulations re: applications and renewal (3 AAC 306.025; 3 AAC 306.035(a))

Attorney General File:	2019200736
Regulation Filed:	2/24/2020
Effective Date:	3/25/2020
Print:	233, April 2020

cc with enclosures: Harry Hale, Department of Law
Judy Herndon, LexisNexis
Jane Sawyer, Regulations Specialist

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF MARIJUANA CONTROL BOARD

The attached three pages of regulations, dealing with application and renewal date, are certified to be a correct copy of the regulation changes that the Marijuana Control Board adopted at its January 24, 2020, 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: 1-31-2020


Glen Klinkhart, Interim Director

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on

Febr. 24th, 2020 at 2:20 P.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.


Lieutenant Governor

Effective: March 25, 2020.

Register: 233, April 2020.

2020

~~(Words in **boldface and underlined** indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted.)~~

3 AAC 306.025(a) is amended to read:

(a) An applicant must initiate a new marijuana establishment license or endorsement application on a form the board prescribes, using the board's electronic system, **to create a public notice form.**

3 AAC 306.025(b) is amended to read:

(b) After initiating a new marijuana license or endorsement application, the applicant must give notice of the application to the public by

(1) posting a copy of the **public notice form** [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 or endorsement applied for along with a citation to a provision of this chapter authorizing that type of license or endorsement; and

2020

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

(3) submitting a copy of the public notice form [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.

(Eff. 2/21/2016, Register 217; am 12/28/2017, Register 224; am 2/21/2019, Register 229; am 4/11/2019, Register 230; am 3/25/2020, Register 233)

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 306.035(a) is amended to read:

(a) On or before May 1 of each year, the director shall send notice that a marijuana establishment with a license in active and operating status must file a renewal application not later than June 30 of the current year. The director shall send the notice to the marijuana establishment's electronic mailing address on file with the board. In the notice the director shall include a hyperlink for the marijuana establishment to access the electronic renewal application by means of the Internet, along with instructions on using and submitting the form. Any marijuana establishment with a license in active and operating status on or before June 30 of the current year must submit the completed renewal application [ELECTRONICALLY], along with the license renewal fee, to the director not later than June 30 of each year. If June 30 falls on a

Register 233, April 2019 2020

COMMERCE, COMMUNITY, AND EC. DEV.

Saturday or Sunday, the deadline is extended to 4:30 p.m. on the first business day following June 30. **If mailed, the complete renewal application and fee must be postmarked by the deadline.** A marijuana establishment must maintain a current electronic mailing address on file with the director. A marijuana establishment is not excused from filing a renewal application as required in this section even if the marijuana establishment fails to receive a renewal notice from the director.

(Eff. 2/21/2016, Register 217; am 12/28/2017, Register 224; am 2/21/2019, Register 229; am 3 / 25 / 2020, Register 233)

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: February 14, 2020

File No.: 2019200736

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

Tel. No.: 465-3600

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

Re: Marijuana Control Board regulations
re: applications and renewal (3 AAC
306.025; 3 AAC 306.035(a))

The Department of Law has reviewed the attached regulations of the Department of Marijuana Control Board against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. 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 that initiation of an application through the agency's electronic process generates a public notice form for posting and submission to local governments. The regulations also clarify that renewal applications, if mailed, must be postmarked not later than the deadline for renewals.

The September 22, 2019 public notice and the January 31, 2020 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, and are not to the body of the regulations.

SCW

cc w/enc: Glen Klinkhart, Interim Director
 Marijuana Control Board
 Department of Commerce, Community, and Economic Development

 Amy Demboski, Assistant Commissioner and Regulations Contact
 Department of Commerce, Community, and Economic Development

 Jane Preston Sawyer, Regulations Specialist
 Alcohol and Marijuana Control Office
 Department of Commerce, Community, and Economic Development

 Joan M. Wilson, Assistant Attorney General
 Commercial, Fair Business, and Child Support Section

AFFIDAVIT OF BOARD ACTION

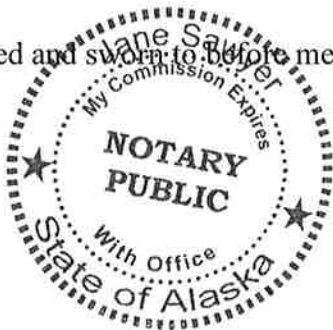
I, Glen Klinkhart, Interim Director for the Marijuana Control Board, being duly sworn, state the following:

The attached motion dealing with application and renewal date was passed by the Marijuana Control Board during its January 24, 2020, meeting.

Date: 1-31-2020


Glen Klinkhart, Interim Director

Subscribed and sworn to before me at Anchorage, Alaska, on 1-31-2020.




Notary Public in and for the State of Alaska



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

Marijuana Control Board Meeting January 23-24, 2020 Excerpt from Unapproved Minutes

2. Application and Renewal Date

TAB 78

Status: Public comment period closed
October 30, 2019 Potential Board Actions: Vote to adopt;
OR Substantially amend and put out for public comment

Glen provides background. Motion to adopt: 5-0 passed

NOTICE OF PROPOSED CHANGES ON APPLICATION AND RENEWAL DATE
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 application and renewal date, including the following:

3 AAC 306.025(a), 3 AAC 306.025(b) propose to clarify the regulations to state that the initiation of a license application through the electronic system creates a “public notice form”, and this public notice form is what the applicant posts in the two required locations and sends to local governments and community councils.

3 AAC 306.035(a) proposes to amend to state that a renewal application and fee may be postmarked by the renewal deadline and still be considered to be submitted on time.

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 Alcohol and Marijuana Control Office at 550 West 7th Avenue, Suite 1600, Anchorage AK 99501. Additionally, the Marijuana Control Board will accept comments by email 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 4:30pm on October 30, 2019.

You may submit written questions relevant to the proposed action to the Alcohol and Marijuana Control Office at 550 West 7th Avenue, Suite 1600, Anchorage, AK 99501 or to amco.regs@alaska.gov. The questions must be received at least 10 days before the end of the public comment period. The Alcohol and 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 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 (907) 269-0350 not later than October 20, 2019 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 amco.regs@alaska.gov or (907) 269-0350.

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

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

The Alcohol and Marijuana Control Office keeps a list of individuals and organizations interested in its regulations. Those on the list will automatically be sent a copy of all of the Alcoholic Beverage Control Board notices of proposed regulation changes. To be added to or removed from the list, send a request to the AMCO office at amco.regs@alaska.gov, giving your name, and either your e-mail address or mailing address, as you prefer for receiving notices.

Date: September 20, 2019



Erika McConnell, Director
Marijuana Control Board

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Marijuana Control Board
2. General subject of regulation: Application and Renewal Date
3. Citation of regulation (may be grouped): 3 AAC 306.025(a) and (b); 3 AAC 306.035(a)
4. Department of Law file number, if any: 2019200736

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: none

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

A private person: none

Another state agency: none

A municipality: none

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

	Initial Year FY <u>20</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: Jane P. Sawyer
Title: Regulations Specialist
Address: 550 West 7th Ave., Ste. 1600, Anchorage, AK 99501
Telephone: 907-269-0490
E-mail address: jane.sawyer@alaska.gov

10. The origin of the proposed action:

☐ Staff of state agency
☐ Federal government
☐ General public
☐ Petition for regulation change⁷
☒ Other (identify): _____

11. Date: September 20, 2019

Prepared by:



Name (printed): Jane P. Sawyer _____

Title (printed): Regulations Specialist _____

Telephone: 907-269-0490 _____

ANCHORAGE DAILY NEWS

AFFIDAVIT OF PUBLICATION

Account #: 270221 ST OF AK/ALCOHOL AND MARIJUANA
CONTROL BOARD, ANCHORAGE, AK 99501

Order #: W0011683

Cost: \$398.44

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Lisi Misa being first duly sworn on oath deposes and says that 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 afore-said 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

09/22/2019

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 _____

Subscribed and sworn to before me
this 23rd day of September 2019.

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

MY COMMISSION EXPIRES

7/14/2020

STATE OF ALASKA
NOTARY

PUBLIC

Jada L. Nowling

NOTICE OF PROPOSED CHANGES ON APPLICATION AND RENEWAL DATE IN THE REGULATIONS OF THE MARIJUANA CONTROL BOARD

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The Alcohol and Marijuana Control Office keeps a list of individuals and organizations interested in its regulations. Those on the list will automatically be sent a copy of all of the Alcoholic Beverage Control Board notices of proposed regulation changes. To be added to or removed from the list, send a request to the AMCO office at amco.regs@alaska.gov, giving your name, and either your e-mail address or mailing address, as you prefer for receiving notices.

Date: September 20, 2019
By: /s/ Erika McConnell, Director
Marijuana Control Board

Published: September 22, 2019

AMCO

SEP 26 2019

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, Glen Klinkhart, Interim 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 306.025; 3 AAC 306.035 regarding application and renewal date has been given by being

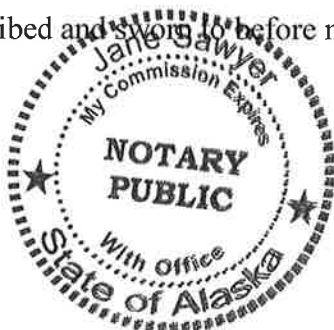
- (1) published in a newspaper or trade publication;
- (2) furnished to every person who has filed a request for notice of proposed action with the state agency;
- (3) furnished to appropriate state officials;
- (4) furnished to interested persons;
- (5) furnished to the Department of Law, along with 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: 1-31-2020


Glen Klinkhart, Interim Director

Subscribed and sworn to before me at Anchorage, Alaska, on 1-31-2020.




Notary Public in and for the State of Alaska

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

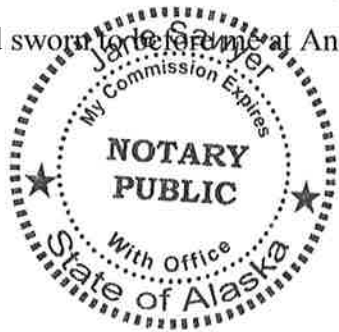
I, Glen Klinkhart, Interim Director for the Marijuana Control Board, being duly sworn, state the following:

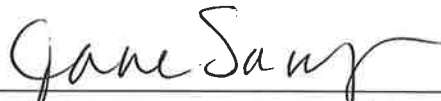
In compliance with AS 44.62.215, the Marijuana Control Board has kept a record of its use or rejection of factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Marijuana Control Board regulation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

Date: 1-31-2020


Glen Klinkhart, Interim Director

Subscribed and sworn to before me at Anchorage, Alaska, on 1-31-2020.




Notary Public in and for the State of Alaska