

Kevin Meyer
Lieutenant Governor
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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: November 25, 2020

RE: Filed Permanent Regulations: Marijuana Control Board
Marijuana Control Board Regulations re: Quality Control (3 AAC 306.345, .460, .557)

Attorney General File:	2020200071
Regulation Filed:	11/25/2020
Effective Date:	12/25/2020
Print:	236, January 2021

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

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF MARIJUANA CONTROL BOARD

The attached three pages of regulations, dealing with quality control sampling and exit packaging, are certified to be a correct copy of the regulation changes that the Marijuana Control Board adopted at its June 11, 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: 6-15-2020



Glen Klinkhart, Interim Director

FILING CERTIFICATION

April Simpson for
↑

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

November 25, 2020 at 4:01 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

April Simpson

Lieutenant Governor *Kevin Meyer*

Effective: December 25, 2020.

Register: 23rd, January 2021.

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

**I, KEVIN MEYER, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA,
designate the following state employees to perform the Administrative Procedures Act
filing functions of the Office of the Lieutenant Governor:**

**Josh Applebee, Chief of Staff
Kady Levale, Notary Administrator
April Simpson, Regulations and Initiatives Specialist**

**IN TESTIMONY WHEREOF, I have
signed and affixed the Seal of the State of
Alaska, in Juneau, on December 11th,
2018.**



Kevin Meyer
.....

**KEVIN MEYER
LIEUTENANT GOVERNOR**

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

3 AAC 306.345(a)(3) is amended to read:

(3) marijuana or a marijuana product sold is packaged in opaque, resealable, child-resistant packaging when the purchaser leaves the retail section of the licensed premises; the packaging 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. **For the purpose of this paragraph, the opaqueness component of the packaging may be achieved by the consumer placing the marijuana or marijuana product on the consumer's person in an opaque manner or in the consumer's personal opaque bag.**

((Withdrawn))

(Eff. 2/21/2016, Register 217; am 11/8/2018, Register 228; am 12 / 25 / 2020, Register 236)

((Publisher: 3 AAC 306.345 is unchanged.))

~~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 306.460(d)(7) is amended to read:

(7) samples that leave the licensed premises are packaged in opaque, resealable, child-resistant packaging and clearly marked or labeled "For Quality Control" and the packaging 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. **For the purpose of this subsection, the opaqueness component of the packaging may be achieved by the employee placing the sample on the employee's person in an opaque manner or in the employee's personal opaque bag.**

((Withdrawn))

((Publisher: 3 AAC 306.460 is unchanged except that the closing period after (7) changes to a semi-colon and the "and" connector moves from after 3 AAC 306.460(b) to after 3 AAC 306.460(7) to reflect new (8).))

^(d)

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

~~(b)(1)(i) (d) A sample provided under (d) of this section grown at that facility to an employee of the facility, who is in possession of a valid marijuana handler card for the purpose of quality control only if~~
~~(1) must pass all applicable laboratory tests required under this chapter before distributing it to an employee; and~~

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

~~(2) may be distributed only to an employee of the facility that grew the~~
~~(8) each sample is tested under 3 AAC 306.455 and 3 AAC 306.645~~
marijuana. (Eff. 2/21/2016, Register 217; am 11/8/2018, Register 228; am 12/25/2020, before

Register 236)

- | | | | |
|------------|--------------|--------------|--------------|
| 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 | | |

being provided to an employee under this section.

3 AAC 306.557(7) is amended to read:

~~(7) samples that leave the licensed premises are packaged in opaque, resealable, child-resistant packaging and clearly marked or labeled "For Quality Control" and the packaging 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. For the purpose of this subsection, the opaqueness component of the packaging may be achieved by the employee placing the sample on the employee's person in an opaque manner or in the employee's personal opaque bag.~~

withdrawn

((Publisher: 3 AAC 306.557 is unchanged except that the closing period at the end of (7) changes to a semi-colon and the "and" connector moves from 3 AAC 306.557 to reflect the addition of new (8).))

The introductory language of

3 AAC 306.557 is amended by adding a new subsection to read:

~~(b) A sample provided under (a) of this section~~

~~(1) must pass all applicable laboratory tests required under this chapter before being distributed to an employee; and~~

~~(2) may be distributed only to an employee of the facility that manufactured the~~

3 AAC 306.557. Quality ^{bold}Control Sampling. A marijuana product manufacturing facility may provide a sample of marijuana ^{bold}concentrate or other marijuana product ^{bold}manufactured by that facility to an employee of the facility, who is in possession of a valid marijuana handler card for the purpose of quality control only if

marijuana product. (Eff. 5/25/2018, Register 226; am 12 / 25 / 2020, Register 236)

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 306.557 is amended to add a new paragraph to read:

(8) each sample is tested under 3 AAC 306.445 and 3 AAC 306.550 before being provided to an employee under this section.

MEMORANDUM

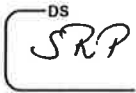
State of Alaska
Department of Law

To: The Honorable Kevin Meyer
Lieutenant Govern

Date: November 25, 2020

File No.: 2020200071

Tel. No.: 465-3600

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

Re: Regulation re: 3 AAC 306.345, .460,
.557: Marijuana Control Board -
Quality Control

The Department of Law has reviewed the attached regulations of the Marijuana Control Board against the statutory standards of the Administrative Procedure Act. Technical edits are made to the changes to 3 AAC 306.460 (d) and 3 AAC 306.557. This memorandum constitutes the written statement of approval for the changed to 3 AAC 306.460(d), new 3 AAC 306.460(d)(8), 3 AAC 306.557, new 3 AAC 306.557 (8). under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations. The regulations were adopted by the board after the close of the public comment period. The approved regulations concern quality control sampling requirements. While the edits look substantial, we have been assured they are technical and implement the board's intent regarding quality control samples provided to an employee of a cultivator or manufacture who grew or produced the sample.

The board has withdrawn the proposed changes to 3 AAC 306.345(a)(3), 3 AAC 306.460(d)(7) and 3 AAC 306.557(7), regarding packaging requirements, for further work. We believe in a future project, the board may wish to consider if 3 AAC 406.455 and 3 AAC 406.550 would benefit from conforming amendments to mirror those in 3 AAC 306.406(c) and the introductory language of 3 AAC 306.557.

The public notice and the certification of adoption / 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.

As noted above, 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.

SRP:srp

Glen Klinkhart, 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

(d)

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

~~(b)(1)~~ (d) ^{marijuana cultivation facility} A sample provided under (d) of this section ^{grown at that facility} to an employee of the facility, who is in possession of a valid marijuana handler card for the purpose of quality control only if (1) must pass all applicable laboratory tests required under this chapter before distributing it to an employee; and

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

(2) may be distributed only to an employee of the facility that grew the (8) each sample is tested under 3 AAC 306.455 and 3 AAC 306.645 marijuana. (Eff. 2/21/2016, Register 217; am 11/8/2018, Register 228; am 12/29/2020, before

Register 236)

- | | | | |
|-------------------|--------------|--------------|--------------|
| 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 | | |

being provided to an employee under this section.

3 AAC 306.557(7) is amended to read:

(7) samples that leave the licensed premises are packaged in opaque, resealable, child-resistant packaging and clearly marked or labeled "For Quality Control" and the packaging 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. For the purpose of this subsection, the opaqueness component of the packaging may be achieved by the employee placing the sample on the employee's person in an opaque manner or in the employee's personal opaque bag.

Withdrawn

(Publister: 3 AAC 306.557 is unchanged except that the closing period at the end of (7) changes to a semi-colon and the "and" connector moves from 3 AAC 306.557 to reflect the addition of new (8).))

The introductory language of

3 AAC 306.557 is amended by adding a new subsection to read:

(b) A sample provided under (a) of this section

(1) must pass all applicable laboratory tests required under this chapter before being distributed to an employee; and

(2) may be distributed only to an employee of the facility that manufactured the

3 AAC 306.557. ^{bold} Quality Control Sampling. A marijuana product manufacturing facility may provide a sample of marijuana concentrate or other marijuana product ^{bold} manufactured by that facility to an employee of the facility, who is in possession of a valid marijuana handler card for the purpose of quality control only if

marijuana product. (Eff. 5/25/2018, Register 226; am 12 / 25 / 2020, Register 236)

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 306.557 is amended to add a new paragraph to read:

(8) each sample is tested under 3 AAC 306.445 and 3 AAC 306.550 before being provided to an employee under this section.

NOTICE OF PROPOSED CHANGES ON QUALITY CONTROL SAMPLING AND EXIT
PACKAGING 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 quality control sampling and exit packaging, including the following:

3 AAC 306.345(a)(3) proposes to allow the opaqueness component of the “exit packaging” required by retailers to provide to consumers to be achieved by other means.

3 AAC 306.460(d)(7) and 3 AAC 306.557(7) propose to allow the opaqueness component of the packaging in which a quality sample is provided to an employee be achieved by other means.

3 AAC 306.460(e) and 3 AAC 306.557(b) would be new provisions requiring the quality control sample to be tested, and clarifying that the quality control sample may only be provided to an employee of the cultivator who grew the marijuana or an employee of the manufacturer who made the marijuana product, respectively.

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 March 13, 2020**.

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 March 3, 2020** 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 Alcoholic Beverage 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 Marijuana 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: January 29, 2020



Glen Klinkhart, Interim Director
Marijuana Control Board

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Marijuana Control Board
2. General subject of regulation: Quality Control Sampling and Exit Packaging
3. Citation of regulation (may be grouped): 3 AAC 306.345; 3 AAC 306.460; 3 AAC 306.557
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: none

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

A private person: none known

Another state agency: none known

A municipality: none known

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): Marijuana Control Board

11. Date: January 28, 2020

Prepared by: 
Name: Jane P. Sawyer
Title: Regulations Specialist
Telephone: 907-269-0490

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, Jane P. Sawyer, Regulations Specialist, 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 306.345, 3 AAC 306.460, 3 AAC 306.557 regarding quality control sampling and exit packaging 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).

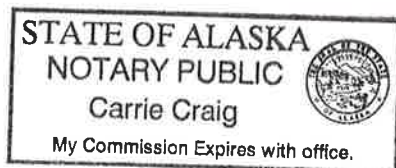
As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (2), (4) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.


Date: 6-15-2020



Jane P. Sawyer, Regulations Specialist

Subscribed and sworn to before me at Anchorage, Alaska, on 6/15/2020.





Notary Public in and for the State of Alaska

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

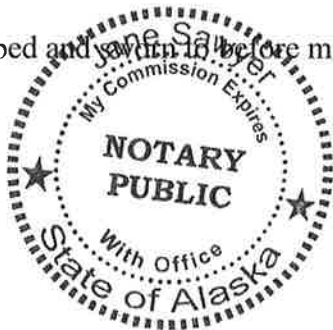
I, Glen Klinkhart, Interim Director for the Marijuana Control Board, being duly sworn, state the following:

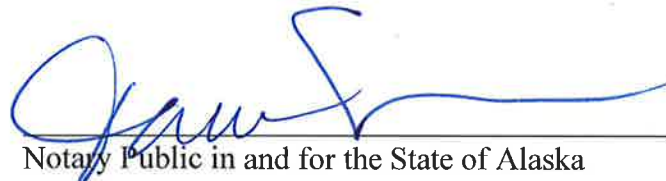
In compliance with AS 44.62.215, the Marijuana Control Board has kept a record of its use or rejection of factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Marijuana Control Board regulation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

Date: 6-15-2020


Glen Klinkhart, Interim Director

Subscribed and sworn to before me at Anchorage, Alaska, on 6-15-2020.




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 June 11, 2020, Excerpt from Unapproved Minutes

Quality Control Sampling and Exit Packaging

TAB 1

Status: Public comment closed on March 13, 2020.

Potential Board Actions: Vote to adopt; amend and put out for public comment; send back to staff for revisions; close project without action.

2:44 pm: Loren summarizes. 4 comments, supportive. Nick asks if this is only for cultivations. Jane answers. Bruce motions to adopt. Nick 2nds. None opposed, motion carries.

AFFIDAVIT OF BOARD ACTION

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

The attached motion dealing quality control sampling and exit packaging was passed by the Marijuana Control Board during its June 11, 2020, meeting.

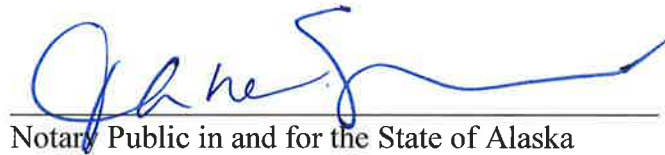
Date: 6-15-2020



Glen Klinkhart, Interim Director

Subscribed and sworn to before me at Anchorage, Alaska, on 6-15-2020.





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, ANCHORAGE, AK 99501

Order #: W0013281

Cost: \$438.28

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 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

01/30/2020

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 30th day of January 2020.

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

STATE OF ALASKA
NOTARY
PUBLIC
Jada L. Nowling

MY COMMISSION EXPIRES

7/14/2020

NOTICE OF PROPOSED CHANGES ON QUALITY CONTROL SAMPLING AND EXIT PACKAGING 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 quality control sampling and exit packaging, including the following:

3 AAC 306.345(a)(3) proposes to allow the opaqueness component of the "exit packaging" required by retailers to provide to consumers to be achieved by other means.

3 AAC 306.460(d)(7) and 3 AAC 306.557(7) propose to allow the opaqueness component of the packaging in which a quality sample is provided to an employee be achieved by other means.

3 AAC 306.460(e) and 3 AAC 306.557(b) would be new provisions requiring the quality control sample to be tested, and clarifying that the quality control sample may only be provided to an employee of the cultivator who grew the marijuana or an employee of the manufacturer who made the marijuana product, respectively.

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 March 13, 2020.

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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 and Marijuana Control Office at amco.regs@alaska.gov or (907) 269-0350.

After the public comment period ends, the Alcoholic Beverage 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 Marijuana 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: January 28, 2020
By: /s/ Glen Klunkhart,
Interim Director
Marijuana Control Board

Published: January 30, 2020

AMCO

FEB - 3 2020