



## MEMORANDUM

TO: Peter Mlynarik, Chair, and  
Members of the Marijuana Control Board

DATE: July 12, 2017

FROM: Erika McConnell, Director

RE: Director's Report

### OPERATIONS

In June, Naomi Johnston and Joe Samaniego both moved on to more advanced positions within the state, so our administrative section is down to one person. We are working on filling the one position and moving the other into the enforcement section to provide more administrative support to the investigators. Our budget request of three new positions (two examiners and an administrative assistant) was approved so we are working to get those positions into the state system. Additionally we've initiated conversations to expand our office space, as there is currently no room for additional licensing or administrative staff.

AMCO purchased a portable audio conferencing system that will provide amplification, recording, and a telephonic connection for future board meetings. We anticipate using it for the first time at the September meetings in Nome. We are exploring the use of Cisco Event Center to gain more control over the telephonic participation at board meetings.

The Department of Commerce, Community, and Economic Development closed on July 3 as one of the two required FY18 furlough days. The Department plans to close on the day after Thanksgiving as the second furlough day for this fiscal year. Additionally, the office will be closed on August 8 and 9 for a staff training.

Licensing staff is hard at work on processing the renewals.

- 113 facilities are required to renew
- 38 renewal applications have been deemed complete—of those, at least 9 will be brought to the board (in total, NOV's have been issued to 23 different licensees)
- 25 renewal applications have been reviewed with corrections pending
- 45 renewal applications have been received but have not been reviewed
- 5 licensees did not submit any or all renewal forms by June 30

### AUDITS

The legislative auditors have finished their work in our office; their preliminary report is expected in late October or early November.

## **TRAVEL AND CONFERENCES**

In mid-June, I attended the National Conference of State Liquor Regulators' yearly meeting in Denver, on a stipend provided to new state directors.

A second state regulator's Cannabis Summit is scheduled for September in Oregon. In addition to the four states with existing recreational marijuana programs, the states of California, Nevada, Massachusetts, and Maine will be invited, as well as representatives from Canada.

## **REGULATIONS**

Attachment 1 to this report is a spreadsheet of all the regulations projects opened by the board and their current status.

## **SPECIFIC ISSUES**

### **• Board Resolutions and Advisories**

At the last meeting, the board instructed me to draft a board advisory regarding multiple structures on a licensed premises. I have not yet drafted the advisory as the issue needs more discussion—see below.

### **• Delegation**

Attached for your review are three delegation memos:

- The authority to temporarily approve operating plan changes, delegated to the director at the October 28, 2016, meeting. (Attachment 2)
- The authority to approve renewal applications for licensees with no Notices of Violation, when the renewal application has no local government protest or public objection, delegated to the director at the May 15, 2017, meeting. (Attachment 3)
- The authority to issue temporary licenses to those facilities whose renewal application will be brought to the board due to an NOV, a local government protest, or a public objection, delegated to the director at the May 24, 2017, meeting. (Attachment 4)

### **• Fingerprints Required with Renewals**

AS 17.38.200(a) states

Each application or renewal application for a registration to operate a marijuana establishment shall be submitted to the board. A renewal application may be submitted up to 90 days before the expiration of the marijuana establishment's registration. When filing an application under this subsection, the applicant shall submit the applicant's fingerprints and the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check. The board shall forward the fingerprints and fees to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400.

The requirement for fingerprints and fees to be submitted with renewal applications was not communicated to licensees until June 23. I have given extensions to licensees who have requested extra time to get their fingerprints submitted.

The Board should consider whether or not fingerprints are necessary with each year's renewal. Considering that AMCO should get a flag in APSIN if a licensee is charged with a crime in Alaska, a

yearly background check seems excessive. I recommend that the Board request a legislative change to require background checks every three to five years.

- **License Expiration Date**

The regulations provide a date of license expiration for those establishments that do not timely file their license renewal application—in 3 AAC 306.035(g) this date is August 31. However, for those licensees who timely file their renewal on or before June 30, there is no clear license expiration date in the regulations. The general scheme is clear: that the license term runs with the fiscal year from July 1 to June 30. To date, licenses printed and provided to licensees have an expiration date of June 30.

However, this leads to practical issues for the AMCO office and potential confusion for licensees. For those licensees who timely file their renewal on or before June 30, the office must print and mail temporary licenses, pending public objection and notification of no protest from the local government, which has 60 days to respond. Once the final license is approved (either by the director or the board), a final license must be sent to replace the temporary license.

If, instead of dating licenses as expiring on June 30, we dated them as expiring on August 31, an expiration date shared by those licensees who fail to renew, the office can avoid the effort of printing and mailing many temporary licenses for those licensees who timely renew with a prompt response from the local government. The office would only need to issue temporary licenses to those licensees who, for whatever reason, must be brought to the board at a September (or later) meeting for board consideration, or for those renewals where the local government response is later than August 31.

This date change would save a considerable amount of effort, as well as some monetary savings, for AMCO, especially as the number of licenses grows over the years. While the license period would end up being a bit more than a year, this is already the case for those licensees who fail to renew. In order to alert licensees to the renewal date so that they do not use the license expiration date to evaluate when to renew, we could add, above the expiration date, "Renewal application due June 30, 20xx." An example with the current license (top) and proposed license (bottom) is provided as Attachment 5.

I request the board's support in stating on licenses that their expiration is on August 31.

- **Conflict in Regulations: Who approves MJ-14 Licensed Premises Diagram Change**

3 AAC 306.015(c) states, "If a marijuana establishment wishes to reduce or expand the area of the licensed premises used for a marijuana establishment, the marijuana establishment must submit a new line drawing showing the proposed changes to the premises, and must obtain the board's written approval."

3 AAC 306.705(c) states, "A holder of a marijuana establishment license may not alter the functional floor plan or reduce or expand the area of the licensed premises without first obtaining the director's written approval."

For at least eight months, AMCO directors have been approving licensed premises diagram changes (Form MJ-14) under the latter authorization. Attachment 6 is a list of all approved licensed premises

changes. When the former section of regulations was brought to my attention in mid-June, I ceased approving any MJ-14 requests pending board guidance.

Unless the board determines it wishes to evaluate and approve these changes, I recommend that the board delegate its authority under 3 AAC 306.015(c) to the director. With such an action, a regulations project would not be necessary. Should the board wish to retain authority to approve licensed premises diagram changes, a regulations project to alter 3 AAC 306.705(c) would be advisable.

- **Licensed Premises**

At the May 15 meeting, the board discussed the definition of “licensed premises” and whether or not there could be multiple buildings. The board directed me to draft an advisory stating that multiple buildings located at one address across a contiguous space would be allowable. As my staff and I discussed this issue and evaluated an MJ-14 (request for licensed premises diagram change) that the board will review later in this meeting, I felt there were still some issues the board needed to clarify. Questions for the board are bolded.

**Does the moving of plants and product around an area and between buildings qualify as “operations”?**

3 AAC 306.430(a) states, “A marijuana cultivation facility shall conduct any operation in a restricted access area in compliance with 3 AAC 306.710 and this section.” The board must determine what “any operation” means. In a situation with multiple buildings, a licensee will almost certainly be moving plants and product between buildings. Common understanding of the word “operations” would suggest that all functions of a cultivation facility from seed to when the product is transported to another licensed facility would be included. In this interpretation, the entire restricted access area of a cultivation facility would have to be contiguous, so that at no time was marijuana ever taken out of the restricted access area unless it was being transported to another licensed premises.

**Is there any portion of the licensed premises of a cultivation facility (or a product manufacturing facility) to which the public should have access?**

One could argue that the purpose of separating a restricted access area from a licensed premises area is to accommodate retail stores, which must have an area to which the public is NOT restricted in order to have customers. A testing facility needs an area that is not a restricted access area for deliveries of samples.

**Should the entire licensed premises area of a cultivation or product manufacturing facility be a restricted access area?**

**How will security be maintained if restricted access areas and licensed premises areas are allowed to be noncontiguous?**

- **Public Health Responsible Consumer Campaign**

The Department of Health and Social Services has an Opioids and Marijuana Education Program Coordinator, Regina McConkey. Ms. McConkey and a working group have developed a “Responsible Consumer” public education campaign with the goal of delivering messages that empower users to consume responsibly. The initial focus is two-pronged: “avoid drugged driving” and “start low and go slow.” I connected Ms. McConkey with Mr. Carrigan of the Alaska Marijuana

Industry Association in order to find retailers willing to participate in the TV public service announcements (PSAs) that are being developed. Airing of the PSAs is expected to begin in the fall.

As a side note, I plan to regularly attend the DHHS Marijuana Workgroup meetings or send a delegate, in order to stay connected to DHHS and provide communication to the board on marijuana public health initiatives.

- **2018 Legislative Requests**

Legislative proposals for the 2018 legislative session are due to the Commissioner's Office in mid-August. I hope the Board will reserve some time at the end of the agenda to discuss any requests the Board wishes to make. One request may be to address the requirement for new fingerprints at every renewal, as discussed above.

### **NEXT MEETINGS**

The next MCB meeting is scheduled for September 14-15 in Nome. Applications must be complete and any other documents for the board must be submitted to our office by August 25, 2017, to be on the September agenda.

The following meeting is set for November 14-15 in Anchorage.

### **STATISTICS**

#### ***Sales***

April	\$2,864,458
May	\$3,565,523
June	\$4,633,846

Total 2017 sales, through June 30, 2017: \$16,007,830

Total sales from program inception to June 30, 2017: \$17,697,159

#### ***FY17 Fees***

New application fees collected minus LGB share:	\$85,700
Renewal application fees collected (no LGB deduction):	\$43,000
License fees (new and renewal) collected:	\$935,020
Other fees (handler permits, changes, new products):	\$86,060

Application fees shared with LGB: \$113,000

#### ***Taxes***

March 2017 – from 27 taxpayers:	\$220,200
April 2017 – from 29 taxpayers:	\$272,000
May 2017 – from 31 taxpayers:	\$272,600

Total taxes from program inception to June 30, 2017: \$1,237,600

DOL Project Number	Topic	Date Opened by MCB	Board member point person(s)	Current Status	Date Adopted by MCB	Effective Date
JU2015200669	Omnibus Regulations			Adopted by board; filed with Lt Gov	11/20/15 Pg 23	2/21/16
JU2016200436-1	Conduct of board meetings in alcohol	2/11/16 pg 2		Adopted by board; filed with Lt Gov	7/6/16	12/28/16
JU2016200436-2	[Reserved for anticipated future work]					
JU2015201028	Onsite consumption	2/11/16		Board voted not to continue project 2/2/17; Board reopened 3/7/17; on April and May agendas; postponed to July		
JU2016200617	Handler permits	4/27/16 pg 9		Out for public cmt 9/7/16; duplicated by Prj#165	N/A	N/A
JU2016200611	Testing	6/9/16 pg 22		signed by Lt. Gov. 6/5/17	4/5/17	7/5/17
JU2016200610	Advertising requirements	6/9/16 pg 22	Schulte	Voted out for public comment 7/8/16 and 5/15/17; comment period ended 6/30/17; on July 12 agenda		
	Space planning and layout					
	Labeling and packaging					
JU2016200612	Video surveillance (Schulte handout)	6/9/16 pg 22	Schulte			
JU2016200609	Participation of outside entities – residency requirements (Emmett handout)	6/9/16 pg 22	Emmett			
JU2016200605	Waste disposal (Springer motion)	6/9/16 pg 23	Springer			
JU2016200613	Retail store notices	7/8/16 pg 16		signed by Lt. Gov. 6/22/17	4/5/17	7/22/17
JU2016200837	Requiring fingerprints for new owners	9/7/16		signed by Lt. Gov. 6/19/17	4/5/17	7/19/17
JU2016200838	What happens to existing licenses if local gov opts out by ordinance	9/7/16		signed by Lt. Gov. 6/27/17	4/5/17	7/27/17
JU2016200839	DEC approval before acceptance of license application (food safety permit)	9/7/16		signed by Lt. Gov. 6/27/17	4/5/17	7/27/17
	Advertisement; definition of “advertisement” and “logo”	12/7/16		Board took no action on proposal (2/2/17)	N/A	N/A
JU2017200165	Transportation	2/2/17		Voted out for public comment 3/7/17; comment period ended 5/5/17; on 5/15/17 agenda; postponed to July		
	Revocation of handler’s permit					
	Quality control	2/2/17		Draft on 7/12 agenda		
	Waste disposal #2			Draft on 7/12 agenda		
	Random sampling					
	Plant count for new cultivators	4/5/17		Draft on 7/12 agenda		

DOL Project Number	Topic	Date Opened by MCB	Board member point person(s)	Current Status	Date Adopted by MCB	Effective Date
	Separation distance		Springer			
	Revise definition of “direct or indirect financial interest” at 3 AAC 306.015(e)	5/15/17	Springer	Draft on 7/12 agenda		
	Local government jurisdiction			Draft on 7/12 agenda		
	Timing of public objections		Emmett	Draft on 7/12 agenda		
	Notify AMCO of crime on licensed premises		Springer	Draft on 7/12 agenda		
	Allow licensees to participate in trade shows		Emmett			
	Better define “promotional activities” and “advertisement”		Mlynarik; Miller	Draft on 7/12 agenda		
	Require trim that is sold separately to be tested separately; kief		Emmett; Miller	Draft on 7/12 agenda		
	Revise definition of “recreation or youth center”		Miller	Draft on 7/12 agenda		
	Require testing licensee to notify director of significant equipment failure		Springer	Draft on 7/12 agenda		



THE STATE  
*of* **ALASKA**  
GOVERNOR BILL WALKER

**Department of Commerce, Community,  
and Economic Development**

ALCOHOL & MARIJUANA CONTROL OFFICE

550 West Seventh Avenue, Suite 1600  
Anchorage, AK 99501  
Main: 907.269.0350

**Marijuana Control Board**  
**Delegation 2016-10-28a**  
**Temporary Approval of Operating Plan Changes**

*Adopted (passed 5-0) on October 28, 2016*

In accordance with AS 17.38.150, the Marijuana Control Board delegates to the Director the authority to temporarily approve an operating plan change (MJ-15) until the change is brought to the board for a final decision.

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Peter Mlynarik  
Chair  
Marijuana Control Board

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Erika McConnell  
Director  
Alcohol & Marijuana Control Office





THE STATE  
of **ALASKA**  
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**Department of Commerce, Community,  
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**Marijuana Control Board**

**Delegation 2017-05-15a**

**Renew Licenses Without Protests, Objections, or NOVs**

*Adopted (passed 5-0) on May 15, 2017*

In accordance with AS 17.38.150, the Marijuana Control Board delegates to the Director the authority to renew marijuana licenses which do not have a local government protest, a public objection, or a notice of violation in the past year, in compliance with 3 AAC 306.035.

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Peter Mlynarik  
Chair  
Marijuana Control Board

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Erika McConnell  
Director  
Alcohol & Marijuana Control Office



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**Marijuana Control Board**

**Delegation 2017-05-24a**

**Temporarily Renew Licenses With Protests, Objections, or NOVs**

*Adopted (passed 4-0) on May 24, 2017*

In accordance with AS 17.38.150, the Marijuana Control Board delegates to the Director the authority to issue a temporary renewal for marijuana licenses which have a local government protest, a public objection, or a notice of violation in the past year, in compliance with 3 AAC 306.035.

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Peter Mlynarik  
Chair  
Marijuana Control Board

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Erika McConnell  
Director  
Alcohol & Marijuana Control Office

STATE OF ALASKA - MARIJUANA CONTROL BOARD

LICENSE NUMBER [REDACTED]

FORM CONTROL 101

# MARIJUANA ESTABLISHMENT LICENSE 2016 - 2017

TYPE OF LICENSE: Standard Marijuana Cultivation Facility

ISSUE DATE: 02/10/2017

EXPIRATION DATE: 06/30/2017

EFFECTIVE DATE:

LOCAL GOVERNMENT: City and Borough of Juneau

D/B/A:



Mail Address:



This license cannot be transferred without permission of the Marijuana Control Board

Special restriction - see reverse side

ISSUED BY ORDER OF THE  
MARIJUANA CONTROL BOARD

DIRECTOR

THIS LICENSE MUST BE POSTED IN A VISIBLE PLACE ON THE PREMISES

STATE OF ALASKA - MARIJUANA CONTROL BOARD

LICENSE NUMBER [REDACTED]

FORM CONTROL 101

# MARIJUANA ESTABLISHMENT LICENSE 2016 - 2017

TYPE OF LICENSE: Standard Marijuana Cultivation Facility

ISSUE DATE: 02/10/2017

RENEWAL APPLICATION DUE: 6/30/2017

EXPIRATION DATE: 08/31/2017

EFFECTIVE DATE:

LOCAL GOVERNMENT:

City and Borough of Juneau

This license cannot be transferred without permission of the Marijuana Control Board

Special restriction - see reverse side

ISSUED BY ORDER OF THE  
MARIJUANA CONTROL BOARD

**COPY**

DIRECTOR

THIS LICENSE MUST BE POSTED IN A VISIBLE PLACE ON THE PREMISES



## MEMORANDUM

TO: Peter Mlynarik, Chair, and  
Members of the Marijuana Control Board

DATE: July 12, 2017

FROM: Erika McConnell, Director

RE: List of MJ-14 applications  
approved by the Director

License	Type of license	DBA	Date
10073	Standard Cultivation	ALASKAN BLOOM LLC	10/21/16
10073	Standard Cultivation	ALASKAN BLOOM LLC	12/16/16
10248	Standard Cultivation	ISIDORE	1/6/17
10165	Product Manufacturing	GOOD LLC	2/27/17
10166	Standard Cultivation	GOOD LLC	2/28/17
10034	Standard Cultivation	ODIN'S WAGON LLC	3/16/17
10112	Standard Cultivation	GREAT ALASKAN BUD COMPANY	3/16/17
10308	Limited Cultivation	GREENDREAMS CULTIVATION	3/31/17
10873	Retail	THE STONEY MOOSE	3/31/17
10024	Limited Cultivation	ART'S ALASKAN PLANTATION	4/7/17
10291	Standard Cultivation	LAZY MOUNTAIN HARVEST LLC	6/2/17
10303	Standard Cultivation	BAM ALASKA	6/5/17
10302	Retail	THE HOUSE OF GREEN	6/5/17