

Byron Mallott  
Lieutenant Governor  
State Capitol  
Juneau, Alaska 99811  
907.465.3520 465.5400 Fax  
WWW.LTGOV.ALASKA.GOV




530 West 7<sup>th</sup> Ave, Suite 1700  
Anchorage, Alaska 99501  
907.269.7460 269.0263  
LT GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**MEMORANDUM**

**TO:** Micaela Fowler  
Commerce, Community, and Economic Development

**FROM:** Scott Meriwether, Office of the Lieutenant Governor 465.4081 

**DATE:** June 5, 2017

**RE:** Filed Permanent Regulations: Marijuana Control Board

Marijuana Control Board regulations re: testing of marijuana and marijuana products (3 AAC 306.645; 3 AAC 306.660)

---

Attorney General File:	JU2016200611
Regulation Filed:	6/5/2017
Effective Date:	7/5/2017
Print:	223, October 2017

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

ORDER CERTIFYING THE CHANGES TO  
REGULATIONS OF THE ALCOHOL & MARIJUANA CONTROL OFFICE

The attached four pages of regulations, dealing with laboratory testing of marijuana and marijuana products is certified to be a correct copy of the regulation changes that the Marijuana Control Board adopted at its April 5, 2017 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: May 3, 2017

Erika McConnell

Erika McConnell, Director

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on June 5, 2017 at 10:20 A.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

Byron Mallott

Lieutenant Governor

Effective: July 5, 2017

Register: 223, October 2017

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

3 AAC 306.645 is amended to read:

**3 AAC 306.645. Laboratory testing of marijuana and marijuana products.** (a) A marijuana testing facility shall use the general body of required laboratory tests as set out in this section for marijuana plant material, an extract or concentrate of marijuana, and an edible marijuana product<sup>8</sup>. Required tests may include potency analysis, moisture content, foreign matter inspection, microbial screening, pesticide, other chemical residue, and metals screening, and residual solvents levels. A marijuana testing facility shall establish a schedule of fees and sample size required for each test it offers.

(b) The tests required for each marijuana type or marijuana product, are as follows:

(1) potency testing is required on marijuana bud and flower, marijuana concentrate, and a marijuana product, as follows:

(A) the required cannabinoid potency test must at least determine the concentration of THC, THCA, CBD, CBDA and CBN cannabinoids; a marijuana testing facility may test and report results for any additional cannabinoid if the test is conducted in compliance with a validated method;

(B) a marijuana testing facility shall report potency test results as follows:

(i) for a potency test on marijuana and marijuana concentrate, marijuana testing facility shall list for each required cannabinoid a single percentage concentration that represents an average of all samples within the test

batch; alternatively, the sum of THC and THCA may be reported as total THC;  
the sum of CBD and CBDA may be reported as total CBD;

(ii) for a potency test on a marijuana product, whether conducted on each individual production lot or using process validation, marijuana testing facility shall list for each cannabinoid the total number of milligrams contained within a single retail marijuana product unit for sale;

(iii) for testing whether the THC content is homogenous, the marijuana testing facility shall report the THC content of each single serving in a multi-unit package; the reported content must be within 20 percent of the manufacturer's target; for example, in a 25 milligrams total THC package with five servings, each serving must contain between four and six milligrams of THC;

(C) the marijuana testing facility shall determine an edible marijuana product to have failed potency testing if

(i) an individually packaged edible retail marijuana product contained within a test lot is determined to have more than <sup>(11 trans 5.2))</sup> [50] 60 milligrams of THC within it; or

(ii) the THC content of an edible marijuana product is not homogenous;

(2) microbial testing for the listed substances on the listed marijuana products is required as follows:

Substance	Acceptable Limits Per Gram	Product to be Tested
-Shiga-toxin producing <i>Escherichia coli</i> (STEC)-	less than 1 colony forming unit (CFU/g)	flower; retail marijuana Products; water- and food-based

ca lower case

Bacteria		concentrates
<i>Salmonella</i> species – bacteria	less than 1 colony forming unit (CFU/g)	
<i>Aspergillus fumigatus</i> , <i>Aspergillus flavus</i> , <i>Aspergillus niger</i> - fungus	less than 1 colony forming unit (CFU/g)	

(3) testing for the listed residual solvents and metals on the listed marijuana products is required as follows:

Substance	Acceptable Limits Per Gram	Product to be Tested
Butanes	less than 800 parts per million (PPM)	solvent-based concentrates
Heptanes	less than 500 parts per million (PPM)	
Benzene	less than <del>[.025]</del> 1 parts per million (PPM) (at room temp)	
Toluene	less than 1 parts per million (PPM)	
Hexane	less than 10 parts per million (PPM)	
Total Xylenes (meta-xylenes, para-xylenes, or ortho-xylenes)	less than 1 parts per million (PPM)	

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

- Authority:** AS17.38.010 AS 17.38.150 AS 17.38.200  
 AS17.38.070 AS 17.38.190 AS 17.38.900  
 AS 17.38.121

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

Register 223, October 2017 COMMERCE, COMMUNITY AND <sup>EC. DEV.</sup> ~~ECONOMIC DEVELOPMENT~~  
provided the sample shall

(1) dispose of the entire harvest batch or production lot from which the sample was taken; 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 request 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 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. (Eff. 2/21/2016, Register 217; am 7/5/2017, Register 223)

**Authority:** AS17.38.010 AS 17.38.150 AS 17.38.200  
AS17.38.070 AS 17.38.190 AS 17.38.900  
AS 17.38.121