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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Glenn Hoskinson
Department of Commerce, Community, and Economic Development

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: August 2, 2021

RE: Filed Permanent Regulations: Marijuana Control Board

Marijuana Control Board regulations re: THC content in edibles (3 AAC 306.005(1); 3 AAC 306.300(a)(2); 3 AAC 306.560; 3 AAC 306.645(b)(1))

Attorney General File:	2021200006
Regulation Filed:	8/2/2021
Effective Date:	9/1/2021
Print:	239, October 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 four pages of regulations, dealing with increase in THC content in edibles, are certified to be a correct copy of the regulation changes that the Marijuana Control Board adopted at its June 24, 2021, 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: July 12, 2021



Glen Klunkhart, Director

April Simpson for

FILING CERTIFICATION

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

August 2, 2021 at 2:59 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

for 

Lieutenant Governor *Kevin Meyer*

Effective: September 1, 2021

Register: 239, October 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**

~~2 (Words in boldface and underlined indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted.)~~

3 AAC 306.005²(a)(1) is amended to read:

(1) a retail marijuana store license, granting authority for activities allowed under AS 17.38.070(a), and subject to the provisions of 3 AAC 306.300 – 3 AAC 306.370 [3 AAC 306.300 - 3 AAC 306.365] and 3 AAC 306.700 - 3 AAC 306.770;

(Eff. 2/21/2016, Register 217; am 10/17/2018, Register 228; am 9 / 1 / 2021, Register 239)

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 306.300(a)(2)(A) is amended to read:

(A) each applicable provision of 3 AAC 306.300 – 3 AAC 306.370 [3 AAC 306.300 - 3 AAC 306.365] and 3 AAC 306.700 - 3 AAC 306.770; and

(Eff. 2/21/2016, Register 217; am 10/17/2018, Register 228; am 9 / 1 / 2021, Register 239)

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 306.560 is amended to read:

3 AAC 306.560 Potency limits per serving and transaction for edible marijuana products. A marijuana product manufacturing facility may not prepare a marijuana product with potency levels exceeding the following, as tested in compliance with 3 AAC 306.645:

(1) for a single serving of a marijuana product, **not more than 10** [FIVE] milligrams of active tetrahydrocannabinol (THC) or Delta 9;

(2) in a single packaged unit of a marijuana product to be eaten or swallowed, not more than 10 servings or **100** [50] milligrams of active THC or Delta 9; the THC content must be homogenous, or evenly distributed throughout the marijuana-infused product. (Eff.

2/21/2016, Register 217; am 9 / 1 / 2021, Register 239)

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 306.645(b)(1) is amended to read:

(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, the marijuana testing facility shall list for each required cannabinoid a single percentage concentration, based on dry weight, that represents an average of all samples within the test batch; additionally, total THC and total CBD shall be reported;

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

(iii) 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 100 ^{milligrams} total THC package with 10
servings, each serving must contain between eight and 12 milligrams of THC;

[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

with 10 servings that is

(i) an individually packaged edible retail marijuana product contained within a test lot is determined to have more than 120 [60] milligrams of THC within it; or

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

(Eff. 2/21/2016, Register 217; am 7/5/2017, Register 223; am 11/8/2018, Register 228; am 9 / 1 / 2021, Register 239)

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		