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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Victoria Caltagirone
Department of Commerce, Community and Economic Development

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: March 17, 2023

RE: Filed Permanent Regulations: Marijuana Control Board

Department of Commerce, Community and Economic Development - Marijuana
Control Board regulations re: Dairy Butters, Oils & Fats in Edible Products (3 AAC 306)

Attorney General File:	2022200291
Regulation Filed:	3/17/2023
Effective Date:	4/16/2023
Print:	246, July 2023

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



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Law

CIVIL DIVISION

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March 16, 2023

The Honorable Nancy Dahlstrom
Lieutenant Governor
State of Alaska
P.O. Box 110015
Juneau, AK 99811-0001

Re: *3 AAC 306, DCCED AMCO - Dairy Butters, Oils & Fats in Edible Products*

Our file: 2022200291

Dear Lieutenant Governor Dahlstrom:

The Department of Law has reviewed the attached regulations of the Marijuana Control Board against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This letter 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 concern dairy butters, oils, and fats as stand-alone marijuana infused edible products. The regulations as adopted were eight pages, but after edits the regulations submitted are nine pages.

The regulations were adopted by the Marijuana Control Board after the close of the public comment period. The July 14, 2022 public notice and the October 7, 2022 order certifying changes 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 incorporated into the attached copy of the regulations.

Sincerely,

TREG TAYLOR
ATTORNEY GENERAL

By: **Rebecca C. Polizzotto**
Digitally signed by
Rebecca C. Polizzotto
Date: 2023.03.16
15:37:39 -08'00'

Rebecca C. Polizzotto
Chief Assistant Attorney General
Legislation, Regulations, and
Legislative Research Section

RCP/ehp

CC w/enclosure: Jane Sawyer
Department of Commerce, Community and Economic Development

Kevin A. Higgins, Assistant Attorney General
Department of Law

Parker W. Patterson, Assistant Attorney General
Department of Law

Steven C. Weaver, Assistant Attorney General
Department of Law

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF MARIJUANA CONTROL BOARD

The attached ^{nine} eight pages of regulations, dealing with dairy butters, oils, and fats sold as stand-alone edible products, are certified to be a correct copy of the regulation changes that the Marijuana Control Board adopted at its September 21-22, 2022, 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: Oct. 7, 2022



Joan M. Wilson, Director

April Simpson
for Nancy Dahlstrom

FILING CERTIFICATION

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

March 17, 2023 at 3:45 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.


for Lieutenant Governor Nancy Dahlstrom

Effective: April 16, 2023

Register: 246, July 2023

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, NANCY DAHLSTROM, 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, 2022.



Nancy Dahlstrom
.....

**NANCY DAHLSTROM
LIEUTENANT GOVERNOR**

3 AAC 306.047(a) is amended to read:

(a) An application **must be filed in writing on a form the board prescribes, in compliance with the application procedure set out under 3 AAC 306.025** to convert an existing

(1) limited marijuana cultivation facility license to a standard marijuana cultivation facility license;[,]

(2) [AN EXISTING] standard marijuana cultivation facility license to a limited marijuana cultivation facility license;[,]

(3) [AN EXISTING] marijuana concentrate manufacturing facility license to a **standard** marijuana product manufacturing facility license;[,] or

(4) standard [AN EXISTING] marijuana product manufacturing facility license to a marijuana concentrate manufacturing facility license [MUST BE FILED IN WRITING ON A FORM THE BOARD PRESCRIBES, IN COMPLIANCE WITH THE APPLICATION PROCEDURE SET OUT IN 3 AAC 306.025].

(Eff. 2/21/2019, Register 229; am 12/10/2020, Register 236; am 4 / 16 / 2023, Register 246)

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 306.100(d)(5) is amended to read:

(5) for a new **standard** marijuana product manufacturing facility license, \$5,000, and for a renewed **standard** marijuana product manufacturing facility license, \$7,000;

(Eff. 2/21/2016, Register 217; am 7/19/2017, Register 223; am 8/11/2018, Register 227; am 2/21/2019, Register 229; am 4/11/2019, Register 230; am 5/1/2019, Register 230; am 5/9/2019, Register 230; am 3/25/2020, Register 233; am 7/30/2022, Register 243; am

4 / 16 / 2023, Register 246)

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 306.455(c) is amended to read:

(c) A marijuana cultivation facility shall segregate the harvest batch package from which the testing sample was selected until the marijuana testing facility reports the results from its tests. During this period of segregation, the marijuana cultivation facility that provided the sample shall maintain the harvest batch package in a secure, cool, and dry location to prevent the marijuana from becoming contaminated or losing its efficacy. The marijuana cultivation facility that provided the sample may not sell or transport any marijuana from the segregated harvest batch package until the marijuana testing facility has completed its testing [,] and provided those results, in writing, to the marijuana cultivation facility that provided the sample. A[, EXCEPT THAT A] marijuana cultivation facility may transfer untested marijuana to a licensed marijuana concentrate or **standard** marijuana product manufacturing facility to be used to make carbon

dioxide- or solvent-based extract **before receiving test results in writing**. After processing, the carbon dioxide- or solvent-based extract must pass all required tests. The marijuana cultivation facility shall maintain the testing results as part of its business books and records. (Eff. 2/21/2016, Register 217; am 11/8/2018, Register 228; am 3/13/2020, Register 233; am 4 / 16 / 2023, Register 246)

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

The introductory language of 3 AAC 306.505(a) is amended to read:

(a) Except as provided in 3 AAC 306.515, a licensed marijuana product manufacturing facility[, INCLUDING A MARIJUANA CONCENTRATE MANUFACTURING FACILITY,] is authorized to
...

The introductory language of 3 AAC 306.505(b) is amended to read:

(b) A licensee of a marijuana product manufacturing facility[, INCLUDING A LICENSEE OF A MARIJUANA CONCENTRATE MANUFACTURING FACILITY,] may also apply for a marijuana cultivation facility license, retail marijuana store license, or both. A licensee of a marijuana product manufacturing facility[, INCLUDING A LICENSEE OF A MARIJUANA CONCENTRATE MANUFACTURING FACILITY,] who obtains a marijuana cultivation facility license, retail marijuana store license, or both shall

...

3 AAC 306.505(b)(2) is amended to read:

(2) comply with each provision of this chapter that applies to any other type of marijuana establishment license that the licensee of a marijuana product manufacturing facility [OR MARIJUANA CONCENTRATE MANUFACTURING FACILITY] obtains. (Eff. 2/21/2016, Register 217; am 12/10/2020, Register 236; am 4/16/2023, Register 246)

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		

The introductory language of 3 AAC 306.510(a) is amended to read:

(a) A licensed marijuana product manufacturing facility[, INCLUDING A LICENSED MARIJUANA CONCENTRATE MANUFACTURING FACILITY,] may not

...

(Eff. 2/21/2016, Register 217; am 4/16/2023, Register 246)

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 306.515 is amended to read:

3 AAC 306.515. Marijuana concentrate manufacturing facility license. A licensed marijuana concentrate manufacturing facility has the privileges set out in 3 AAC 306.505, except that it may not

(1) manufacture, refine, process, cook, package, label, or store any marijuana product other than marijuana concentrate;

(2) sell, distribute, or deliver a marijuana product other than marijuana concentrate to a retail marijuana store or to another marijuana product manufacturing facility

(3) provide or transport a sample of a marijuana product other than marijuana concentrate to a licensed marijuana testing facility for testing; [OR]

(4) provide samples of a product other than marijuana concentrate to a licensed retail marijuana store for purposes of negotiating a sale; or

(5) prepare or package infused dairy butter, oils, or fats as a stand-alone edible product for sale other than on wholesale to another marijuana product

manufacturing facility. (Eff. 2/21/2016, Register 217; am 4 / 16 / 2023, Register 246)

- 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

The introductory language of 3 AAC 306.520 is amended to read:

3 AAC 306.520. Application for marijuana product manufacturing facility license

An applicant for a marijuana product manufacturing facility license[, INCLUDING A

MARIJUANA CONCENTRATE MANUFACTURING FACILITY LICENSE,] must file an application on a form the board prescribes, and provide the information required under 3 AAC 306.020 and

...

(Eff. 2/21/2016, Register 217; am 7/27/2017, Register 223; am 4 / 16 / 2023, Register 246)

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 306.525(a) is amended to read:

3 AAC 306.525. Approval of concentrates and marijuana products. (a) A marijuana product manufacturing facility [, INCLUDING A MARIJUANA CONCENTRATE MANUFACTURING FACILITY,] must obtain the board's approval for each product **that** it will manufacture for sale or transfer to another licensed marijuana establishment. **A standard marijuana product manufacturing facility must obtain the board's approval for each product that it will use as an in-house ingredient in another marijuana product.** The board will not approve a marijuana product that is prohibited under 3 AAC 306.510(a)(4).

3 AAC 306.525(c) is amended to read:

(c) A licensed marijuana product manufacturing facility may [AT ANY TIME] submit **at any time** a new product approval request to the board on a form the board prescribes along with the fee required under 3 AAC 306.100(c).

3 AAC 306.525(d) is amended to read:

(d) A licensed marijuana product manufacturing facility shall keep its ingredient list and potency limits for any **food-based concentrate or** food product containing marijuana on file at the marijuana product manufacturing facility's licensed premises. The ingredient list and potency limits for any product manufactured at the facility must be made available for inspection on request by the director, or an employee or agent of the board. (Eff. 2/21/2016, Register 217;

4 / 16 / 2023, Register 246)

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		

The introductory language of 3 AAC 306.530(a) is amended to read:

3 AAC 306.530. Marijuana handler permit and food safety worker training. (a) A marijuana product manufacturing facility[, INCLUDING A MARIJUANA CONCENTRATE MANUFACTURING FACILITY,] shall ensure that each agent who is required or permitted to be physically present on the licensed premises at any time, each licensee, and each employee

...

(Eff. 2/21/2016, Register 217; am 2/21/2019, Register 229; am 4 / 16 / 2023, Register 246)

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 306.555(b)(2) is amended to read:

(2) food-based marijuana concentrate may be produced by extracting cannabinoids from marijuana through the use of propylene glycol, glycerin, butter, olive oil, or other typical cooking fats; infused dairy butter, oils, or fats derived from natural sources may be used to prepare infused edible products [; INFUSED DAIRY BUTTER, OILS, OR FATS MAY NOT BE PREPARED AS STAND-ALONE EDIBLE PRODUCTS FOR SALE];

(Eff. 2/21/2016, Register 217; am 4 / 16 / 2023, Register 246)

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 306.565(c) is amended to read:

(c) [EXCEPT AS PROHIBITED IN 3 AAC 306.555(b)(2),] A [a] licensed marijuana product manufacturing facility may transfer marijuana concentrates in wholesale packages not to exceed 10 pounds to another licensed marijuana product manufacturing facility or a licensed

Register 246, July 2023

COMMERCE, COMMUNITY, AND EC. DEV.

retail marijuana store, except that infused dairy butter, oils, or fats may not be transferred in wholesale to a retail marijuana store by any marijuana product manufacturing facility.

(Eff. 2/21/2016, Register 217; am 2/21/2019, Register 229; am 3/13/2020, Register 233; am 4 / 16 / 2023, Register 246)

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