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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Sara Chambers, Department of Commerce, Community and Economic Development

FROM: April Simpson, Office of the Lieutenant Governor 465.4081 

DATE: December 6, 2023

RE: Filed Permanent Regulations: Marijuana Control Board

Marijuana Control Board regulations re: Revocation of Marijuana Acceptance (3 AAC 306.305)

Attorney General File:	2023200227
Regulation Filed:	12/6/2023
Effective Date:	1/5/2024
Print:	249, April 2024

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



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Law

CIVIL DIVISION

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December 5, 2023

The Honorable Nancy Dahlstrom
Lieutenant Governor
State of Alaska
P.O. Box 110015
Juneau, AK 99811-0015

Re: *3 AAC 306.305 - .750 Marijuana Control Board Revocation of Marijuana
Acceptance*
Our file: 2023200227

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 were adopted by the Marijuana Control Board after the close of the public comment period.

The regulations concern the ability of marijuana businesses to reject or revoke acceptance of marijuana products, along with the transportation of marijuana products. Under the amended regulations, marijuana businesses may reject and return products up the supply chain and marijuana producers and cultivators may accept rejected products. The regulations maintain all current tracking requirements on rejected products. Finally, the regulations allow secured marijuana compartments to be accessed during transport, provided the seal is not broken on product packaging, and clarifies the prohibition on unnecessary stops during transportation.

The August 14, 2023 public notice and the November 29, 2023 certification of adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.060 is not required.

Technical corrections were necessary to conform the regulations in accordance with AS 44.62.060. On December 1, 2023, your office accepted and filed regulation project 2023200352: 3 AAC 306.405(a)(9): Marijuana Control Board - Seeds and Clones with an effective date of December 31, 2023. The attached regulation rennumbers 3 AAC 306.405(a)(9) as (10). Considering project 2023200352's effective date will pre-date the effective date of the attached regulations, the attached regulations have been amended to incorporate the provisions of 2023200352 and to add a history note indicating the effective date of project 2023200352. The corrections are incorporated into the attached copy of the regulations. We would advise making the publisher of the register aware that 3 AAC 306.405(a)(9) has been amended by consecutive projects.

Sincerely,

TREG TAYLOR
ATTORNEY GENERAL

By: **Rebecca C. Polizzotto**
Digitally signed by
Rebecca C. Polizzotto
Date: 2023.12.05
15:24:13 -09'00'

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

RCP/KMD

CC w/enclosure: Kristina Serezhenkov, Regulations Specialist 2
Department of Commerce, Community and Economic Development

Kevin Higgins, Assistant Attorney General
Department of Law

Kevin Dilg, Assistant Attorney General
Department of Law

APPENDIX J: Certification Order

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF THE MARIJUANA CONTROL BOARD

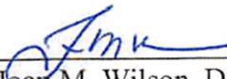
The attached eight pages of regulations, dealing with revoke acceptance of marijuana product and transportation, is certified to be a correct copy of the regulation changes that the Marijuana Control Board adopted at its November 15, 2023, meeting, under the authority of AS 17.38.121 and after compliance 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: 11/29/2023 _____




Joan M. Wilson, Director

April Simpson for

FILING CERTIFICATION

I, Nancy Dahlstrom, Lieutenant Governor for the State of Alaska, certify that on December 6, 2023 at 1:46 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: January 5, 2024.

Register: 249, April 2024.

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:

April Simpson, Regulations and Initiatives Specialist

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on May 15th, 2023.



Nancy Dahlstrom

**NANCY DAHLSTROM
LIEUTENANT GOVERNOR**

3 AAC 306.305(a) is amended to read:

3 AAC 306.305. Retail marijuana store privileges. (a) A licensed retail marijuana store is authorized to

(1) sell marijuana purchased from a licensed marijuana cultivation facility, packaged and labeled as required under 3 AAC 306.345, 3 AAC 306.470, and 3 AAC 306.475 in an amount not exceeding the limit set out in 3 AAC 306.355, to an individual on the licensed premises or as permitted under 3 AAC 306.995 for consumption off the licensed premises;

(2) reject or revoke acceptance of marijuana purchased from a licensed marijuana cultivation facility;

(3)[(2)] sell a marijuana product purchased from a licensed marijuana product manufacturing facility, packaged and labeled as required under 3 AAC 306.345, 3 AAC 306.565, and 3 AAC 306.570, in a quantity not exceeding the limit set out in 3 AAC 306.355, to an individual on the licensed premises or as permitted under 3 AAC 306.995 for consumption off the licensed premises;

(4) reject or revoke acceptance of a marijuana product purchased from a licensed marijuana product manufacturing facility;

(5) salvage and sell kief, trim, or flower separated from marijuana purchased from a licensed marijuana cultivation facility while preparing the marijuana with required packaging and labeling under 3 AAC 306.345, 3 AAC 306.565, and 3 AAC 306.570 to an individual on the licensed premises;

(6)[(3)] store marijuana and marijuana product [PRODUCTS] on the licensed premises in a manner consistent with 3 AAC 306.710 - 3 AAC 306.720;

(7)[(4)] with prior approval of the board, permit consumption of marijuana or a

marijuana product purchased on the licensed premises, in a designated area on the licensed premises.

(Eff. 2/21/2016, Register 217; em am 4/17/2020 - 8/14/2020, Register 234; am 11/24/2020, Register 236; am 12/10/2020, Register 236; am 1 / 5 / 2024, Register 249)

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 306.330(a) is amended to read:

(a) A retail marijuana store shall use a marijuana inventory tracking system as provided in 3 AAC 306.730 to ensure all marijuana and marijuana product in the retail marijuana store's possession is identified and tracked from the time the retail marijuana store receives, **rejects, or revokes acceptance of** any batch of marijuana or lot of marijuana product through the sale, transfer to another licensed marijuana establishment, or disposal of the batch of marijuana or lot of marijuana product.

3 AAC 306.330(b) is amended to read:

(b) When marijuana from a marijuana cultivation facility or marijuana product from a marijuana product manufacturing facility is delivered or transported to the licensed premises of a retail marijuana store, the retail marijuana store shall immediately enter identification information for that batch of marijuana or lot of marijuana product into the retail marijuana store's marijuana inventory tracking system. A retail marijuana store **shall reject** [MAY NOT ACCEPT] marijuana or a marijuana product that does not have a valid transport manifest generated from the marijuana inventory tracking system of the marijuana establishment that

originated the delivery.

(Eff. 2/21/2016, Register 217; am 1/22/2023, Register 245; am 1 / 5 / 2024, Register 249)

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 306.405(a) is amended to read:

(a) A licensed standard marijuana cultivation facility is authorized to

(1) propagate, cultivate, harvest, prepare, cure, package, store, and label marijuana;

(2) sell marijuana only to a licensed retail marijuana store, to another licensed marijuana cultivation facility, or to a licensed marijuana product manufacturing facility;

(3) accept marijuana from a licensed retail marijuana store that

(A) rejected a shipment of marijuana; or

(B) revoked acceptance of a shipment of marijuana;

(4)[(3)] provide samples to a licensed marijuana testing facility for testing;

(5)[(4)] store inventory on the licensed premises; any stored inventory must be secured in a restricted access area and accounted for in the marijuana cultivation facility's marijuana inventory tracking system as required under 3 AAC 306.730;

(6)[(5)] transport marijuana in compliance with 3 AAC 306.750;

(7)[(6)] conduct in-house testing for the marijuana cultivation facility's own use;

(8)[(7)] provide marijuana samples to a licensed retail marijuana store or marijuana product manufacturing facility for the purpose of negotiating a sale;

(9)[(8)] begin initial operations at the time of preliminary inspection by an employee or agent of the board with

(A) 12 or fewer mature, non-flowering plants, designated and used as mother plants;

(B) any number of immature plants; and

(C) any number of seeds for cultivation on the licensed premises;

(10)[(9)] introduce a new strain after written approval by the director on a form prescribed by the board, by

(A) receiving not more than twenty clones or cuttings from a person 21 years of age or older, without compensation; or

(B) receiving seeds from a person 21 years of age or older, without compensation, for cultivation on the licensed premises.

(Eff. 2/21/2016, Register 217; am 10/20/2018, Register 228; am 12/10/2020, Register 236; am 12/31/2023, Register 248; am 1 / 5 / 2024, Register 249)

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 306.480 is amended to read:

3 AAC 306.480. Marijuana tax to be paid. A marijuana cultivation facility[, INCLUDING A STANDARD MARIJUANA CULTIVATION FACILITY AND A LIMITED MARIJUANA CULTIVATION FACILITY,] shall submit monthly reports to the Department of Revenue and pay the excise tax required under AS 43.61.010 and 43.61.020 on all marijuana sold or provided as a sample to a marijuana establishment. (Eff. 2/21/2016, Register 217;

Register 249, April 2024

COMMERCE, COMMUNITY, AND EC. DEV.

am 1 / 5 / 2024, Register 249)

Authority: AS 17.38.010 AS 17.38.121 AS 17.38.200
[AS 17.38.030] AS 17.38.150 AS 17.38.900
AS 17.38.070 AS 17.38.190

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

(1) purchase marijuana from a marijuana cultivation facility or from another marijuana product manufacturing facility;

(2) extract marijuana concentrate in compliance with 3 AAC 306.555;

(3) manufacture, refine, process, cook, package, label, and store marijuana **product** [PRODUCTS] approved under 3 AAC 306.525, including

(A) marijuana concentrate; or

(B) any product intended for consumption or use on the body that is comprised of marijuana and other ingredients, including edible products, ointments, salves, patches, or tinctures;

(4) sell, distribute, or deliver marijuana extract or any marijuana product only to a licensed retail marijuana store or to another licensed marijuana product manufacturing facility;

(5) reject or revoke acceptance of marijuana purchased from a licensed marijuana cultivation facility or another marijuana product manufacturing facility;

(6) accept marijuana product from a licensed retail marijuana store or another marijuana product manufacturing facility that

(A) rejected a shipment of marijuana product; or

(B) revoked acceptance of a shipment of marijuana product;

(7)[(5)] provide and transport samples of marijuana concentrate or other marijuana product to a licensed marijuana testing facility for testing;

(8)[(6)] provide a sample of marijuana concentrate or a marijuana product approved under 3 AAC 306.525 to a licensed retail marijuana store for the purpose of negotiating a sale;

(9)[(7)] store inventory in a restricted access area on the licensed premises as provided in 3 AAC 306.535;

(10)[(8)] transport marijuana in compliance with 3 AAC 306.750;

(11)[(9)] conduct in-house testing for the marijuana product manufacturing facility's own use.

(Eff. 2/21/2016, Register 217; am 12/10/2020, Register 236; am 1 / 5 / 2024, Register 249)

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 306.540(a) is amended to read:

(a) A marijuana product manufacturing facility shall use a marijuana inventory tracking system as provided in 3 AAC 306.730 to ensure that the marijuana product manufacturing facility identifies and tracks any marijuana or marijuana product from the time the marijuana or marijuana product is received, through

(1) use of the marijuana or marijuana product in manufacturing any other marijuana product;

(2) sale or transfer of the marijuana or marijuana product originally received, or any marijuana product manufactured at that marijuana product manufacturing facility to another licensed marijuana establishment; [AND]

(3) return of marijuana product from a licensed retail marijuana store or another marijuana product manufacturing facility that

(A) rejected a shipment of marijuana product; or

(B) revoked acceptance of a shipment of marijuana product;

(4)[(3)] disposal of any expired or outdated marijuana or marijuana product that is not sold or transferred to another licensed marijuana establishment **and**

(5) [(4)] relocation of marijuana or marijuana **product** [PRODUCTS] to the new licensed premises in the case of a transfer of a marijuana establishment license to another location approved by the board.

(Eff. 2/21/2016, Register 217; am 1/22/2023, Register 245; am 1 / 5 / 2024, Register 249)

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 306.750(d) is amended to read:

(d) During transport, the marijuana or marijuana product must be in a sealed package or container and in a locked, safe, and secure storage compartment in the vehicle transporting the marijuana or marijuana product. **While the secure storage compartment may be opened to access or rearrange its contents, the** [THE] sealed package **containing the marijuana or marijuana product** may not be opened during transport. A vehicle transporting marijuana or a

marijuana product must travel directly from the shipping marijuana establishment to the receiving marijuana establishment, and may not make unnecessary stops in between except to deliver or pick up marijuana or a marijuana product at another licensed marijuana establishment.

For the purposes of this subsection, “unnecessary stops” do not include stops for the safe delivery of marijuana or marijuana products, including

(1) transport vehicle refueling;

(2) basic transport vehicle maintenance;

(3) necessary rest and food breaks for a person transporting marijuana or marijuana product;

(4) delivery or deposit of monetary receipts at a financial institution or payment of state excise taxes if the delivery, deposit, or payment location is not significantly off the transport route.

(Eff. 2/21/2016, Register 217; am 10/11/2017, Register 224; am 8/11/2018, Register 227; em am 4/17/2020 - 8/14/2020, Register 234; em am 5/7/2020 - 8/14/2020, Register 234; am 1/22/2023, Register 245; am 1 / 5 / 2024, Register 249)

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		