



MEMORANDUM

TO: Marijuana Control Board DATE: October 23, 2020
FROM: Jane P. Sawyer, Regulations Specialist RE: Regulations Project – THC
Content for Edibles

At the October 2020 meeting, the board opened a regulations project to increase the THC content limit on single servings and multiple-servings package from 5mg/50mg to 10mg/100mg. Attached is the initial draft for board consideration.

- 3 AAC 306.005(a)(1) and 3 AAC 306.300(a)(2)(A) are simply updating the range of applicable provisions under the subsections.
- 3 AAC 306.560 is amended to allow for a single serving to contain not more than 10 milligrams of THC, and for a single packaged unit to contain not more than 100 milligrams of THC. The packaged unit still may not exceed 10 servings, each serving may not exceed a certain amount of THC content.
- 3 AAC 306.645(b)(1)(B)(iii) simply updates the example provided of the 20 percent variance allowed for THC content in a single serving. The actual math needs to be done by the manufacturer based on manufacturer's target.
- 3 AAC 306.645(b)(1)(C)(i) is changed from 60 milligrams to 120 milligrams. 120 milligrams would be the maxed allowed THC content in an individually packaged edible marijuana product within a test lot based on the 20 percent variance.

Options for the board:

- Put out for public comment
- Amend and put out for public comment
- Send back to staff for revisions
- Close the project without action

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COMMERCE, COMMUNITY, AND EC. DEV.

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

3 AAC 306.005(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 ___/___/_____, Register _____)

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 ___/___/_____, Register _____)

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

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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 ___/___/_____, Register _____)

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 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;]

Commented [SJP(1): This is just updating the example. The actual math needs to be done by the licensee based on their target.

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(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 **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 ___ / ___ / ___, Register _____)

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

Commented [SJP(2): This number is the highest allowed THC content in a package according to the 20% variance.