



## MEMORANDUM

TO: Peter Mlynarik, Chair, and  
Members of the Board

DATE: November 14, 2017

FROM: Erika McConnell, Director  
Marijuana Control Board

RE: Regulations Project – Streamline  
Edibles Testing

**Summary:** Some types of edibles are baked goods made with some form of marijuana concentrate. As each batch of concentrate may have a different potency, the amount of concentrate to add to the recipe for an edible product in order to result in edibles with 5mg of THC per serving could vary. Some manufacturing licensees prepare large quantities of ingredients for a production lot, but bake a test batch first, in order to confirm that the resulting edibles have the correct amount of THC. If the results fail required testing, they would like to test a second batch after adjusting the recipe, rather than having to destroy all the ingredients. Under current regulations, retesting is only permitted to validate test results (3 AAC 306.660(c)).

**Recommendation:** Put out for public comment. Alternately, the board could wrap this issue into the recommended comprehensive look at the testing section.

3 AAC 306.360 is amended by adding a new subsection 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, the marijuana establishment that 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 **requests** [PETITIONS FOR] a retest of marijuana or a marijuana product that failed a required test, the board or director may **approve** [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.

**(d) If an edible marijuana product fails a required test based on potency results, the product manufacturer must notify the board, and;**

**(1) may apply for a retest without destroying the production batch if the remainder of the production batch can be altered and a detailed plan to alter the recipe is provided to the board.**

**(2) the product manufacturer shall pay all costs of a retest.**