THE STATE of ALASKA
GOVERNOR MIKE DUNLEAVY

**Department of Commerce, Community, and Economic Development**

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# MEMORANDUM

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|---|---|---|---|
| TO: | Marijuana Control Board | DATE: | January 23, 2020 |
| FROM: | Glen Klinkhart, Interim Director | RE: | Regulations Project – Tracking and Testing of Marijuana |

The board adopted this regulations project at the July 2019 meeting. Upon review by Department of Law, some technical edits were necessary. It is now in front of you to reconsider and readopt the project with those technical edits. Attached are the revised version and the original version adopted at the July meeting for reference.

3 AAC 306.435(a) is amended to read:

(a) A marijuana cultivation facility shall use a marijuana inventory tracking system in compliance with 3 AAC 306.730 to ensure all marijuana propagated, grown, or cultivated on the marijuana cultivation facility's premises is identified and tracked from the time the marijuana is propagated through transfer to another licensed marijuana establishment or destruction. The marijuana cultivation facility shall assign a tracking number to each plant over eight inches tall **and each package of marijuana to be transferred to another facility**. **A package of marijuana may not exceed 10 pounds. The marijuana cultivation facility shall also assign a plant batch name or number to each batch of clones or cuttings. A batch may not consist of more than 50 clones or cuttings.** [WHEN HARVESTED, BUD AND FLOWERS, CLONES OR CUTTINGS, OR LEAVES AND TRIM MAY BE COMBINED IN HARVEST BATCHES OF DISTINCT STRAINS, NOT EXCEEDING FIVE POUNDS. EACH HARVEST BATCH MUST BE GIVEN AN INVENTORY TRACKING NUMBER. CLONES OR CUTTINGS MUST BE LIMITED TO 50 OR FEWER PLANTS AND IDENTIFIED BY A BATCH TRACKING NUMBER.]

new version

3 AAC 306.435(b) is amended to read:

(b) A marijuana cultivation facility shall record each sale and transport of **any plants or seeds and** each **package** [BATCH] in its marijuana inventory tracking system and shall generate a valid transport manifest to accompany **any transported plants and seeds and** each transported **package** [BATCH].

(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 306.445 is amended by adding new subsections to read:

(b) A marijuana cultivation facility shall segregate harvested marijuana into harvest batches.

(c) Once a harvest batch has been uniformly dried and cured, the marijuana cultivation facility shall divide the harvest batch into packages not exceeding 10 pounds each. A sample of each harvest batch package must be submitted to a marijuana testing facility for required testing under 3 AAC 306.455.

new version

(d) Once a harvest batch sample has passed all required testing, a marijuana cultivation facility may repackage marijuana from that harvest batch package for sale or transfer. (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 306.455 is amended to read:

**3 AAC 306.455. Required laboratory testing.** (a) A marijuana cultivation facility shall provide samples **<u>from</u>** [OF] each harvest batch **<u>package</u>** of marijuana produced at the facility to a marijuana testing facility and may not sell or transport any marijuana**<u>, except as</u>**

**provided for in (c) of this section,** until all laboratory testing required under 3 AAC 306.645 has been completed.

(b) To comply with (a) of this section, a marijuana cultivation facility shall

(1) collect a representative [, HOMOGENOUS] sample for testing from each harvest batch **package** that has been uniformly dried and cured, in an amount as set out in the following table:

| Harvest Batch **Package** Size (pounds) | **Number of 1g sub-samples to make up required sample** [QUANTITY OF SAMPLES (1G EACH)] |
|---|---|
| 1 | 4 |
| 2 | 4 |
| 3 | 5 |
| 4 | 6 |
| 5 | 8 |
| 6 | 10 |
| 7 | 11 |
| 8 | 13 |
| 9 | 14 |
| 10 | 16 |

new version

(2) designate an individual responsible for collecting each sample**; that individual shall** [IS REPRESENTATIVE OF THE HARVEST;]

(A) prepare a signed statement showing that each sample is representative of the harvest **batch package**;

(B) provide the signed statement to the marijuana testing facility; and

(C) maintain a copy as a business record under 3 AAC 306.755; and

(3) transport the samples to the marijuana testing facility's licensed premises in

compliance with 3 AAC 306.750.

(c) A marijuana cultivation facility shall segregate the **harvest** [ENTIRE] batch **package** from which the testing **sample was** [SAMPLES WERE] 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** [SAMPLES] 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** [SAMPLES] 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**, except that a marijuana cultivation facility may transfer untested marijuana to a licensed marijuana concentrate or marijuana product manufacturing facility to be used to make carbon dioxide- or solvent-based extract. After processing, the carbon dioxide- or solvent-based extract must pass all required tests** [SAMPLES]. 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 ___/___/____, Register ____)

new version

**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 306.470(a)(1)(B) is amended to read:

(B) in a wholesale package not exceeding **10** [FIVE] pounds for

repackaging by the retail marijuana store; or

(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 306.565(c) is amended to read:

(c) Except as prohibited in 3 AAC 306.555(b)(2), a licensed marijuana product manufacturing facility may transfer marijuana concentrates in wholesale packages not to exceed **10** [FIVE] pounds to another licensed marijuana product manufacturing facility or a licensed retail marijuana store. (Eff. 2/21/2016, Register 217; am 2/21/2019, Register 229; am ___/___/____, Register ____)

new version

**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 306.660 is repealed and readopted 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, including a visual foreign matter inspection, the marijuana establishment that provided the sample shall dispose of the harvest batch package or production lot from which the sample was taken, as required under 3 AAC 306.740.

(b) If a marijuana sample fails a required test, any marijuana plant trim, leaf, and other usable material from the same harvest batch package fail the required test. The board or director may approve a written request, on a form prescribed by the board, to allow a batch of marijuana that fails a required test to be used to make 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 submits a written request, on a form prescribed by the board, for a retest of marijuana or a marijuana product that failed a required test, the board or director may 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) When requested by a marijuana product manufacturing facility, the director may authorize a retest of a marijuana concentrate that passed a required test when the licensee wishes to reprocess a marijuana product to further reduce residual solvent levels. The marijuana product manufacturing facility shall pay all costs of a retest. (Eff. 2/21/2016, Register 217; am 7/5/2017, Register 223; am 10/20/2018, Register 228; am ___/___/____, Register ____)

new version

**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 306.990(b)(3) is amended to read:

(3) "batch" or "harvest batch" means a specifically identified quantity of **bud and flower,** plant trim, leaf, and other usable product from marijuana plants**,** that are uniform in

strain, cultivated in one place and under the same conditions, using the same medium and agricultural chemicals including pesticides and fungicides, and harvested at the same time;

(Eff. 2/24/2015, Register 213; am 2/21/2016, Register 217; am 10/11/2017, Register 224; am 8/11/2018, Register 227; am 10/20/2018, Register 228; am 4/11/2019, Register 230; am 5/9/2019, Register 230; am ___/___/____, Register ____)

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|---|---|---|---|
| **Authority:** | AS 17.38.010 | AS 17.38.121 | AS 17.38.200 |
| | AS 17.38.040 | AS 17.38.150 | AS 17.38.900 |
| | AS 17.38.070 | AS 17.38.190 | |

new version