

Department of Commerce, Community,
and Economic Development

Alcohol and Marijuana Control Office

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THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

MEMORANDUM

TO: Marijuana Control Board DATE: May 27, 2020

FROM: Jane P. Sawyer, Regulations Specialist RE: Regulations Project – Quality
Control Sampling and Exit
Packaging

The board opened this regulation project at the November 2019 meeting and sent it out for public comment at the January 2020 meeting. The public comment period was about 45 days long closing on March 13, 2020. We received four comments which are attached.

This project would do two things:

- Require the quality control sample distributed by a cultivator or manufacturer to be tested before distributing it to the licensee's employee, and clarify that the quality control sample may not be transferred from licensee A to licensee B, for licensee B to distribute as quality control sample; and
- Allow the opaqueness of the "exit packaging" that is required by retailers to provide to consumers and by cultivators and manufacturers to provide to employees for quality control samples to be achieved by other means.

Options for the board:

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

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

3 AAC 306.345(a)(3) is amended to read:

(3) marijuana or a marijuana product sold is packaged in opaque, resealable, child-resistant packaging when the purchaser leaves the retail section of the licensed premises; the packaging must be designed or constructed to be significantly difficult for children under five years of age to open, but not normally difficult for adults to use properly. **For the purpose of this paragraph, the opaqueness component of the packaging may be achieved by the consumer placing the marijuana or marijuana product on the consumer’s person in an opaque manner or in the consumer’s personal opaque bag.**

(Eff. 2/21/2016, Register 217; 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		

3 AAC 306.460(d)(7) is amended to read:

(7) samples that leave the licensed premises are packaged in opaque, resealable, child-resistant packaging and clearly marked or labeled “For Quality Control” and the packaging is designed or constructed to be significantly difficult for children under five years of age to open, but not normally difficult for adults to use properly. **For the purpose of this subsection, the opaqueness component of the packaging may be achieved by the employee placing the sample on the employee’s person in an opaque manner or in the employee’s personal opaque bag.**

3 AAC 306.460 is amended by adding a new subsection to read:

(e) A sample provided under (d) of this section

(1) must pass all applicable laboratory tests required under this chapter before distributing it to an employee; and

(2) may be distributed only to an employee of the facility that grew the marijuana. (Eff. 2/21/2016, Register 217; 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		

3 AAC 306.557(7) is amended to read:

(7) samples that leave the licensed premises are packaged in opaque, resealable, child-resistant packaging and clearly marked or labeled “For Quality Control” and the packaging is designed or constructed to be significantly difficult for children under five years of age to open, but not normally difficult for adults to use properly. **For the purpose of this subsection, the opaqueness component of the packaging may be achieved by the employee placing the sample on the employee’s person in an opaque manner or in the employee’s personal opaque bag.**

3 AAC 306.557 is amended by adding a new subsection to read:

(b) A sample provided under (a) of this section

(1) must pass all applicable laboratory tests required under this chapter before being distributed to an employee; and

(2) may be distributed only to an employee of the facility that manufactured the

marijuana product. (Eff. 5/25/2018, Register 226; 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



March 13, 2020

Via email

Subject: Public Comment on 3 AAC 306.460, dealing with quality control sampling and exit packaging

Dear Honorable Marijuana Control Board Members:

Thank you for the opportunity to comment on the proposed regulations. The proposed regulation **should be adopted** as written.

The Marijuana Control Board proposes to adopt regulation changes in 3 AAC.306.460 amended to be, "For the purpose of this paragraph, the opaqueness component of the packaging may be achieved by the consumer placing the marijuana or marijuana product on the consumer's person in an opaque manner or in the consumer's personal opaque bag."

This change honors customer requests and helps reduce the industry's environmental footprint.

Additionally the Marijuana Control Board proposes to add a subsection that reads "(e) A sample provided under (d) of this section (1) must pass all applicable laboratory tests required under this chapter before distributing it to an employee; and (2) may be distributed only to an employee of the facility that grew the marijuana."

We support this concept being expanded to all license types not just cultivation.

Thank you very much for your continued commitment to our state, our communities, and this industry.

Respectfully,

Alaska Marijuana Industry Association

Board of Directors

The Alaska Marijuana Industry Association is Alaska's only statewide cannabis industry trade group. Our mission is to promote and advocate for a vibrant and reasonably regulated Alaska-based marijuana industry. The AMIA serves to strengthen and enhance a network of connected, independent, informed, regionally and community directed Alaska marijuana organizations.

www.alaskamarijuanaindustry.org

From: [Chris Farris](#)
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Public Comment on Quality Control
Date: Monday, February 03, 2020 6:29:21 PM

AMCO Board and Staff,

I would like to start by saying that I approve of this regulation as written.

I believe this subject could use some additional changes as well. The quality control & sample regulations are getting better due to projects like this one but they still need some additional attention. The quality control sections were applied only to the cultivation and product manufacturing sections and not to the retail section.

As a retail licensee, we are constantly approached by cultivators and product manufacturers wanting to give us samples of their products in an attempt to get products into our store. Currently, the only regulation in place for samples for the retail license allows me to accept samples from cultivators and manufacturers through Metrc but those samples have to either be sent back or destroyed. Retail licenses are also in need of some way to send products home with employees to be tested and evaluated like the quality control section does for the other license types.

Retail employees need to be able to take home and test or sample the products that they are selling as well as take home "samples" that are sent to us from cultivators and manufacturers to best determine what products should be sold in our stores.

Thank you for your time and consideration.

Best Regards,
Chris Farris
CFO | Co-Owner
Green Jar

From: Chris Giddings
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Public Comment regarding the proposed new provision to 3 AAC306.557(b) - QC samples
Date: Wednesday, March 11, 2020 4:27:32 PM

Dear Marijuana Control Board,

Please reconsider adopting the new provision AAC 306.557(b). The proposed provision requiring all QC samples to be tested before a QC sample can be provided to an employee does not protect the employee.

As the Science Director of a product manufacturer, I don't believe the required testing for oils have much to do with public safety. When I make a batch of oil from cannabis and I want to sell this product to a retail store am I supposed to not test the product beforehand? Obviously this would be unacceptable because what if the batch tasted horrible or what if there is an off taste telling me the oil needs further refinement? To QC the sample after testing is asking companies to potentially double their current testing budget... If I got a batch tested and ended up not liking the taste or any aspect of the oil then I would have to rework it up and retest. This is obviously not a sustainable business model.

Another reason to not adopt this proposed change to the regulation is that waiting for test results does not make the QC tester any safer with regards to harmful effects. The list of useful tests for **public safety** on oils currently are solvents and microbial. I use a CO2 extractor so no harmful solvents ever touch our products and also supercritical CO2 kills microbial life, and even if it didn't we decarboxylate all of our oil at 110 to 120 degrees C which is basically akin to pasteurizing our oil before finishing. If there was testing for pesticides/fungicides and heavy metals then I think this change may make more sense. I would then want all plant material to be tested first, which then brings up the good question of whether oil should require those tests be done again.

In summary, please reconsider your proposed new provision 3 AAC 306.57(b) as it would double our testing costs and would not inform the QC tester of any additional information other than potency and terpenes...which is not a safety concern. If you want a waiver to be filled out or anything like that I would be fine with that change but speaking as a QC tester in this industry this change would not help me in any way.

Thank you for your time and consideration to this proposed revision.

Sincerely,
Chris Giddings
Herban Extracts, LLC
License 14432

From: Lisa Coates
To: [CED AMCO REGS \(CED sponsored\)](#)
Subject: Public Comment regarding the proposed new provision to 3 AAC 306.557(b) - QC samples
Date: Wednesday, March 11, 2020 3:58:06 PM

Dear Marijuana Control Board,

Please reconsider adopting the new provision AAC 306.557(b). The proposed provision requiring all QC samples to be tested before a QC sample can be provided to an employee does not protect the employee and it would double our testing costs.

As a licensed marijuana product manufacturer, we are akin to cooks in a kitchen. QC samples are an important step in our process to evaluate our products. 99% of every production batch of oil has had a QC sample taken from it before goes to a lab for testing. We evaluate the taste, harshness, clarity, and effect. The batch of oil may need tweaking if it doesn't taste very good. Banning a QC sample of our oil before it is tested is like requiring a baker making cookies not to try his cookies after they've come out of the oven and before they're packaged up. It is an integral part of the production process that occurs before sending a sample up for testing. It is not uncommon for us to name an oil based on the taste and effect of the concentrate. If we had to adhere to a new regulation disallowing a QC sample before it's tested, we would be paying almost double to test a batch of oil as we now pay \$145/production batch for potency and terpene analysis.

Another reason to not adopt this proposed change to the regulation is that waiting for test results does not make the QC tester any safer with regards to harmful effects. When we send our concentrate oil up for testing, it is currently tested for potency, terpenes and sometimes microbial (if it will be used in an edible). Waiting for test results does not make the employee testing the QC sample any safer, we just know what the actual terpenes are along with the potency. No heavy metal or pesticide testing is available currently, and if it were, we would have required it be done on the cannabis we purchase before processing it with our CO2 extractor. Any microbials to not survive our extraction process so it is safe to QC without test results.

In summary, please reconsider your proposed new provision 3 AAC 306.57(b) as it would double our testing costs and would not inform the QC tester of any additional information other than potency and terpenes...which are not hazards in this industry to our employees.

Thank you for your time and consideration to this proposed revision.

Sincerely,
Lisa Coates
Herban Extracts, LLC
License 14432

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Sincerely,
Lisa Coates
Herban Extracts, lic. 14432
907-252-4755
907maryjane@gmail.com