



MEMORANDUM

TO: Marijuana Control Board DATE: June 23, 2022

FROM: Jane P. Sawyer, Regulations Specialist RE: Regulations Project – Dairy
butter, oils, or fats sold as stand-
alone edible product

The board opened this project at the October 2021 board meeting. The purpose of the project is to amend the regulations to allow marijuana dairy butters, oils, and fats to be prepared as stand-alone edible product for sale to the consumer through the retail.

At the April 2022 board meeting, AMCO counsel at that time and I expressed to the board our confusion between a marijuana product manufacturing facility and a marijuana concentrates manufacturing facility and the way the terminology is used in the regulations (i.e. who can make what). This was clarified with board discussion and input from members of the public—which was very helpful.

Attached is a draft for board consideration. The changes include

- adding the word “standard” in front of “marijuana product manufacturing facility” to mean a full marijuana product manufacturing facility. The term “standard marijuana product manufacturing facility”—under 3 AAC 306.500(a)—has been in regulation since 2016, it has just never been used, but the distinction is important when talking about concentrates and who can make them;
- removing language to reduce wordiness and confusion; and
- removing the prohibition of making stand-alone marijuana infused dairy butters, oils, and fats, and making clear who can make this product.

Potential board actions after discussion:

- send draft out for public comment;
- amend draft and send out for public comment;
- send back to staff;
- close project.

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

3 AAC 306.047(a) is amended to read:

(a) An application to convert an existing limited marijuana cultivation facility license to a standard marijuana cultivation facility license, an existing standard marijuana cultivation facility license to a limited marijuana cultivation facility license, an existing marijuana concentrate manufacturing facility license to a **standard** marijuana product manufacturing facility license, or an existing **standard** marijuana product manufacturing facility license to a marijuana concentrate manufacturing facility license must be filed in writing on a form the board prescribes, in compliance with the application procedure set out in 3 AAC 306.025.

(Eff. 2/21/2019, Register 229; am 12/10/2020, Register 236; 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 306.100(d)(5) is amended to read:

(5) for a new **standard** marijuana product manufacturing facility license, \$5,000, and for a renewed **standard** marijuana product manufacturing facility license, \$7,000;

(Eff. 2/21/2016, Register 217; am 7/19/2017, Register 223; am 8/11/2018, Register 227; am 2/21/2019, Register 229; am 4/11/2019, Register 230; am 5/1/2019, Register 230; am 5/9/2019, Register 230; am 3/25/2020, Register 233; am ____/____/____, Register ____)

Commented [SJP(1): adding the word “standard” in front of marijuana product...to distinguish between a full manufacturing facility vs a concentrates only facility.
This terminology has been in regulations since 2016 under 306.500 (manufacturing facilities), it’s just never been used.

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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(c) is amended to read:

(c) A marijuana cultivation facility shall segregate the harvest batch package from which the testing sample was 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 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 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 **standard** 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. 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 3/13/2020, Register 233; 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 306.505 is amended to read:

3 AAC 306.505. Marijuana product manufacturing facility privileges. (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 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) provide and transport samples of marijuana concentrate or other marijuana product to a licensed marijuana testing facility for testing;

(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;

Commented [SJP(2): .515 lists what concentrates only facilities may not make.

Commented [SJP(3): This language is being removed to reduce wordiness and confusion. The term “marijuana product manufacturing facility” refers to both full manufacturing and concentrate only manufacturing.

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

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

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

(b) A licensee of a marijuana product manufacturing facility[, INCLUDING A LICENSEE OF A MARIJUANA CONCENTRATE MANUFACTURING FACILITY], may also apply for a marijuana cultivation facility license, retail marijuana store license, or both. A licensee of a marijuana product manufacturing facility, including a licensee of a marijuana concentrate manufacturing facility, who obtains a marijuana cultivation facility license, retail marijuana store license, or both shall

(1) conduct any marijuana cultivation operation in a room separate from any other operation and the marijuana product manufacturing facility, and shall conduct any retail marijuana store operation in a room separate from any other operation and the marijuana product manufacturing facility; if the rooms are connected and co-located, a secure door must separate the rooms from each other; a secure door must separate any room connected to and co-located with the marijuana product manufacturing facility; and

(2) comply with each provision of this chapter that applies to any other type of marijuana establishment license that the licensee of a marijuana product manufacturing facility or marijuana concentrate manufacturing facility obtains. (Eff. 2/21/2016, Register 217; am 12/10/2020, Register 236; am ___/___/___, Register _____)

Authority: AS 17.38.010 AS 17.38.150 AS 17.38.200

Commented [SJP(4): This language is being removed to reduce wordiness and confusion. The term “marijuana product manufacturing facility” refers to both full manufacturing and concentrate only manufacturing.

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AS 17.38.070 AS 17.38.190 AS 17.38.900
AS 17.38.121

3 AAC 306.510(a) is amended to read:

(a) A licensed marijuana product manufacturing facility[, INCLUDING A LICENSED MARIJUANA CONCENTRATE MANUFACTURING FACILITY,] may not

(1) sell, deliver, distribute, or transfer marijuana, marijuana concentrate, or a marijuana product directly to a consumer, with or without compensation;

(2) sell marijuana, marijuana concentrate, or a marijuana product that is not manufactured, packaged, and labeled in compliance with 3 AAC 306.500 - 3 AAC 306.570;

(3) allow any person, including a licensee, employee, or agent, to consume marijuana, marijuana concentrate, or a marijuana product on the licensed premises;

- (4) manufacture or sell any product that
 - (A) is an adulterated food or drink;
 - (B) closely resembles a familiar food or drink item including candy; or
 - (C) is packaged to look like candy, or in bright colors or with cartoon

characters or other pictures or images that would appeal to children.

(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 306.515 is amended to read:

3 AAC 306.515. Marijuana concentrate manufacturing facility license. A licensed

Commented [SJP(5): This language is being removed to reduce wordiness and confusion. The term "marijuana product manufacturing facility" refers to both full manufacturing and concentrate only manufacturing.

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marijuana concentrate manufacturing facility has the privileges set out in 3 AAC 306.505, except that it may not

(1) manufacture, refine, process, cook, package, label, or store any marijuana product other than marijuana concentrate;

(2) sell, distribute, or deliver a marijuana product other than marijuana concentrate to a retail marijuana store or to another marijuana product manufacturing facility

(3) provide or transport a sample of a marijuana product other than marijuana concentrate to a licensed marijuana testing facility for testing; [OR]

(4) provide samples of a product other than marijuana concentrate to a licensed retail marijuana store for purposes of negotiating a sale; or [.]

(5) prepare or package infused dairy butter, oils, or fats as a stand-alone edible product for sale other than on wholesale to another marijuana product

manufacturing facility. (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

The introductory language of 3 AAC 306.520 is amended to read:

3 AAC 306.520. Application for marijuana product manufacturing facility license

An applicant for a marijuana product manufacturing facility license[, INCLUDING A MARIJUANA CONCENTRATE MANUFACTURING FACILITY LICENSE,] must file an application on a form the board prescribes, and provide the information required under 3 AAC

Commented [SJP(6): This language is being removed to reduce wordiness and confusion. The term "marijuana product manufacturing facility" refers to both full manufacturing and concentrate only manufacturing.

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306.020 and

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(Eff. 2/21/2016, Register 217; am 7/27/2017, Register 223; 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 306.525 is amended to read:

3 AAC 306.525. Approval of concentrates and marijuana products. (a) A marijuana product manufacturing facility~~[, INCLUDING A MARIJUANA CONCENTRATE MANUFACTURING FACILITY,]~~ must obtain the board's approval for each product that it will manufacture for sale or transfer to another licensed marijuana establishment. A standard **marijuana product manufacturing facility must obtain the board's approval for each product that it will use as an in-house ingredient in another marijuana product.** The board will not approve a marijuana product that is prohibited under 3 AAC 306.510(a)(4).

(b) An applicant for a marijuana product manufacturing facility license may request the board's approval of its intended products with a new license application by including, in its operating plan

(1) a photograph, drawing, or graphic representation of the expected appearance of each final product; and

Commented [SJP(7): This language is being removed to reduce wordiness and confusion. The term "marijuana product manufacturing facility" refers to both full manufacturing and concentrate only manufacturing.

Commented [SJP(8): "standard" here separates a full marijuana product manufacturing facility from a concentrates only manufacturing facility.

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(2) the proposed standard production procedure and detailed manufacturing process for each product.

(c) A licensed marijuana product manufacturing facility may [AT ANY TIME] submit **at any time** a new product approval request to the board on a form the board prescribes along with the fee required under 3 AAC 306.100(c).

(d) A licensed marijuana product manufacturing facility shall keep its ingredient list and potency limits for any **food-based concentrate or** food product containing marijuana on file at the marijuana product manufacturing facility's licensed premises. The ingredient list and potency limits for any product manufactured at the facility must be made available for inspection on request by the director, or an employee or agent of the board. (Eff. 2/21/2016, Register 217; ___/___/_____, 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

The introductory language of 3 AAC 306.530(a) is amended to read:

3 AAC 306.530. Marijuana handler permit and food safety worker training. (a) A marijuana product manufacturing facility[, INCLUDING A MARIJUANA CONCENTRATE MANUFACTURING FACILITY,] shall ensure that each agent who is required or permitted to be physically present on the licensed premises at any time, each licensee, and each employee

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Commented [SJP(9): This language is being removed to reduce wordiness and confusion. The term "marijuana product manufacturing facility" refers to both full manufacturing and concentrate only manufacturing.

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(Eff. 2/21/2016, Register 217; am 2/21/2019, Register 229; 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 306.555(b)(2) is amended to read:

(2) food-based marijuana concentrate may be produced by extracting cannabinoids from marijuana through the use of propylene glycol, glycerin, butter, olive oil, or other typical cooking fats; infused dairy butter, oils, or fats derived from natural sources may be used to prepare infused edible products; ~~[INFUSED DAIRY BUTTER, OILS, OR FATS MAY NOT BE PREPARED AS STAND-ALONE EDIBLE PRODUCTS FOR SALE];~~

(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 [a] licensed marijuana product manufacturing facility may transfer marijuana concentrates in wholesale packages not to exceed 10 pounds to another licensed marijuana product manufacturing facility or a licensed

Commented [SJP(10): Removing language. Main reason for this project. The board wants to allow for dairy butters, oils, or fats to be prepared as stand-alone edible products for sale to consumers. But only a standard marijuana product manufacturing can do this; not a concentrate manufacturing.

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retail marijuana store, **except that infused dairy butter, oils, or fats may not be transferred in wholesale to a retail marijuana store by any marijuana product manufacturing facility.**

(Eff. 2/21/2016, Register 217; am 2/21/2019, Register 229; am 03/13/2020, Register 233; 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