



## MEMORANDUM

TO: Marijuana Control Board

DATE: April 3, 2025

FROM: Kristina Serezhenkov, Local  
Government Specialist

RE: Random Sampling

The board opened this project at the February 6, 2025 meeting to include a new requirement for a retail marijuana store to provide random sampling and to expand the types of samples that might be required to be provided by both a marijuana cultivation facility and a retail marijuana store to include marijuana and marijuana products.

Though not part of the board's original directive, a retail marijuana store's ability to transport marijuana is presented in the proposed draft and staff asks for additional board guidance on this subject.

This is an initial draft for board consideration. The attached regulations draft is for board discussion. It proposes to amend:

### **3 AAC 306.465(a) Random sampling (for Marijuana Cultivation Facilities)**

This is amended to add marijuana and marijuana products to the list of possible samples that might be required for random sampling.

### **3 AAC 306.342 Random sampling (for Retail Marijuana Stores)**

This is a new section added which outlines the requirements for a retail marijuana store to provide random samples and also includes among the possible sample types, marijuana and marijuana product.

### **3 AAC 306.305(a) Retail marijuana store privileges**

A new paragraph (8) is added to allow a retail marijuana store the privilege to transport marijuana only for the specific purpose of transporting a (random) sample to a testing facility or for allowing the transport of rejected or revoked marijuana products back to the same marijuana cultivation facility or a marijuana product manufacturing facility that initially delivered those products to the retail marijuana store.

Options for the board:

- Move to approve and send to Law for initial review and (with Law's approval) subsequent public comment
- Move to amend and then send to Law for initial review and (with Law's approval) subsequent public comment
- Move to send back to staff for more work
- Table the regulations project
- Close the regulations project

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

**(The order and the inclusion of entire sections in this draft are for ease of readability during the presentation of this draft.)**

3 AAC 306.465(a) is amended to read:

(a) The board will or the director shall from time to time require a standard or limited marijuana cultivation facility to provide samples of **marijuana, marijuana products**, the growing medium, soil amendments, fertilizers, crop production aids, pesticides, or water for random compliance checks. The sample may be screened for pesticides and chemical residues, screened for unsafe levels of metals, and used for other laboratory tests the director finds to be in the interests of the public. The marijuana cultivation facility shall **bear all costs** of testing under this subsection.

(b) When the board or the director orders random sampling under this section, the director shall identify a licensed marijuana testing facility to perform the testing. **The marijuana testing facility shall collect the test samples.** The marijuana cultivation facility shall cooperate to facilitate the collection of samples. (Eff. 2/21/2016, Register 217; am \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

<b>Authority:</b>	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 [KRS1]:** Article 4- Marijuana Cultivation Facilities- section 306.465 Random sampling.

**Commented [KS2]:** I could not detect a current in place process for this section. This is an action that happens infrequently or not at all. Is this an email notice? Is this a call from enforcement? Should a form be created? There is little history on the use of this section.

**Commented [KRS3]:** Transporting marijuana product to a lab for testing costs- seems much more expensive than transporting 'soil, fertilizer, water samples' ? And though the MJ facility bears the costs it is then the testing facility which 'collects' the samples. This leaves a situation where the testing facility- as the collector of the sample- is responsible for transport but the MJ facility is responsible to pay for that transport.

**Commented [KS4]:** Asking the board for direction. Do they go on site to collect or do they receive it? Does amco enforcement also collect the test sample or have any involvement here?

**Commented [KRS5]:** Challenges of collecting test samples- as collecting 'soil, fertilizers, etc. etc.' has different challenges than collecting 'marijuana product' as far as transporting that sample to the testing lab.

3 AAC 306 is amended by adding a new section to read:

**3 AAC 306.342. Random sampling.** (a) The board will or the director shall from time to

Register \_\_\_\_\_, \_\_\_\_\_ 2025                      COMMERCE, COMMUNITY, AND EC. DEV.

time require a retail marijuana store to provide samples of marijuana, marijuana products, and, if applicable, the growing medium, soil amendments, fertilizers, crop production aids, pesticides, or water for random compliance checks. The sample may be screened for pesticides and chemical residues, screened for unsafe levels of metals, and used for other laboratory tests the director finds to be in the interests of the public. The retail marijuana store shall bear all costs of testing under this subsection.

(b) When the board or the director orders random sampling under this section, the director shall identify a licensed marijuana testing facility to perform the testing. The marijuana testing facility shall collect the test samples. The retail marijuana store shall cooperate to facilitate the collection of samples. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, 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 proposed amendment below is for board discussion and direction and was not originally included in this project.

**Should retail marijuana transport privilege be assessed and, if so, does statute allow it?**

Currently a retail marijuana store has no privilege to 'transport' marijuana.

However, it might be implied under the 'reject and revoke acceptance' of marijuana product wording that allows both a marijuana cultivation facility and a marijuana product manufacturing facility to accept 'rejected or revoked' marijuana product back from a marijuana retailer.

**Commented [KRS6]:** Thinking here of clones for sale in a retail store. Does the board want clones mentioned or keep 'if applicable' ?

**Commented [KRS7]:** As opposed to the MJ Cultivation Facility the Retail Store does not in regulations have the right to transport marijuana.

**Commented [KRS8]:** Sec. 17.38.070. Lawful operation of marijuana-related facilities.  
(a) Notwithstanding any other provision of law, the following acts, when performed by a retail marijuana store with a current, valid registration, or a person 21 years of age or older who is acting in the person's capacity as an owner, employee, or agent of a retail marijuana store, are lawful and shall not be an offense under Alaska law or be a basis for seizure or forfeiture of assets under Alaska law: '  
\*\*\*  
(2) delivering or transferring marijuana or marijuana products to a marijuana testing facility;

**Commented [KRS9R8]:** A retail can deliver to a testing facility but not to another marijuana facility.... This makes the amended wording to allow for just that problematic.

**Commented [KRS10]:** 3 AAC 306.405(a)(3)(A)(B) (for Marijuana Cultivation Facility) and 3 AAC 306.505(a)(6)(A)(B) (for Marijuana Production Facility)

3 AAC 306.305(a) is amended by adding a new paragraph to read: (see paragraph 8)

**3 AAC 306.305. Retail marijuana store privileges**

(a) A licensed retail marijuana store is authorized to

(1) sell marijuana purchased from a licensed marijuana cultivation facility, packaged and labeled as required under 3 AAC 306.345, 3 AAC 306.470, and 3 AAC 306.475 in an amount not exceeding the limit set out in 3 AAC 306.355, to an individual on the licensed premises or as permitted under 3 AAC 306.380 for consumption off the licensed premises;

(2) reject or revoke acceptance of marijuana purchased from a licensed marijuana cultivation facility;

(3) sell a marijuana product purchased from a licensed marijuana product manufacturing facility, packaged and labeled as required under 3 AAC 306.345, 3 AAC 306.565, and 3 AAC 306.570, in a quantity not exceeding the limit set out in 3 AAC 306.355, to an individual on the licensed premises or as permitted under 3 AAC 306.380 for consumption off the licensed premises;

(4) reject or revoke acceptance of a marijuana product purchased from a licensed marijuana product manufacturing facility;

(5) salvage and sell kief, trim, or flower separated from marijuana purchased from a licensed marijuana cultivation facility while preparing the marijuana with required packaging and labeling under 3 AAC 306.345, 3 AAC 306.565, and 3 AAC 306.570 to an individual on the licensed premises;

(6) store marijuana and marijuana product on the licensed premises in a manner

**Commented [KRS11]:** Using the section 306.465 for a MJ cultivation as a model for this wording- in order to make similar requirements for a MJ retail- needed to add ability to transport only for specific reason to their list of privileges.

Register \_\_\_\_\_, \_\_\_\_\_ 2025                      COMMERCE, COMMUNITY, AND EC. DEV.

consistent with 3 AAC 306.710 - 3 AAC 306.720;

(7) with prior approval of the board, permit consumption of marijuana or a marijuana product purchased on the licensed premises, in a designated area on the licensed premises[.];

**(8) transport marijuana in compliance with 3 AAC 306.750 only for the purposes of:**

**(A) providing and transporting to a marijuana testing facility a random sample of marijuana or marijuana products as required under 3 AAC 306.342;**

**(B) transporting back to a licensed marijuana cultivation facility marijuana that was rejected or revoked acceptance purchased from that same licensed marijuana cultivation facility; or**

**(C) transporting back to a licensed marijuana product manufacturing facility marijuana product that was rejected or revoked acceptance purchased from that same licensed marijuana product manufacturing facility.**

\*\*\*

(Eff. 2/21/2016, Register 217; em am 4/17/2020 – 8/14/2020, Register 234; am 11/24/2020, Register 236; am 12/10/2020, Register 236; am 8/13/2023, Register 247; am 1/5/2024, Register 249; am 8/16/2024, Register 251; 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 [KRS12]:** Wording used mostly matches cultivator and product manufacturer wording for same action but allows retail only specific types of transport.

**Commented [KS13]:** Look for statute that prevents transport---for a retail- per Jane- this might need to be removed from draft.

**Commented [KRS14]:** Keep descriptor 'random' so as to specify type of sample or REMOVE descriptor so as to open up for regular sampling activities?

**Commented [KRS15]:** Board direction needed. If the testing facility collects and transports the sample then there may be no need here for a retail to 'transport' the random sample- but statute allows for a retail to transport to testing facility.