3 AAC 306
REGULATIONS FOR THE MARIJUANA CONTROL BOARD

Updated 10/18/20

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MARIJUANA REGULATIONS CHANGES

Effective Date of Change	Index number of updated regulation
Dec. 28, 2016	3 AAC 306.925-935 (*board administration*)
July 5, 2017	3 AAC 306.645; 3 AAC 306.660 (*testing*)
July 19, 2017	3 AAC 306.040; 3 AAC 306.100(c) (*ownership change*)
July 22, 2017	3 AAC 306.365 (*retail store notices*)
July 27, 2017	3 AAC 306.250 (*food safety permit*); 3 AAC 306.315(1); 3 AAC 306.520(1) (*effect of restrictions on sale*)
Oct. 11, 2017	3 AAC 306.750(a); 3 AAC 306.990(a)(10) (*transportation*)
Dec. 28, 2017	3 AAC 306.025(b)(3)(A), (d)(2); 3 AAC 306.035(c)(2); 3 AAC 306.045(c)(2); 3 AAC 306.060(d) (*local government jurisdiction*); 3 AAC 306.065; 3 AAC 306.075(a) (*timing of public objection*)
May 23, 2018	3 AAC 306.700; 3 AAC 306.812 (*handler permits*)
May 25, 2018	3 AAC 306.460; 3 AAC 306.557 (*quality control*); 3 AAC 306.715 (*crime reporting*)
Aug. 11, 2018	3 AAC 306.020 (*conforming edits*); 3 AAC 306.100 (*inspection fee*); 3 AAC 306.430 (c)(2) (*odor*); 3 AAC 306.750; 3 AAC 306.760 (*trade shows*); 3 AAC 306.990(a)
Aug. 23, 2018	3 AAC 306.670(d) (*testing equipment failure*)
Sept. 7, 2018	3 AAC 306.700(c) (*handler permit issuance date*)
Oct. 17, 2018	3 AAC 306.360; 3 AAC 306.770 (*advertising and promotions*)
Oct. 20, 2018	3 AAC 306.405 (*plant count; intro new genetics*); 3 AAC 306.660 (*retests*); 3 AAC 306.730(a) (*inventory tracking*); 3 AAC 306.740 (*waste disposal*); 3 AAC 306.990(a) (*repeal of "affiliate"*)
Nov. 8, 2018	3 AAC 306.345(b)(2); 3 AAC 306.455; 3 AAC 306.475(d)(2); 3 AAC 306.645; 3 AAC 306.670(b) (*testing changes*)
Feb. 21, 2019	3 AAC 306.010; 3 AAC 306.047; 3 AAC 306.060; 3 AAC 306.065; 3 AAC 306.075(b); 3 AAC 306.080; 3 AAC 306.085(a); 3 AAC 306.090(a); 3 AAC 306.095; 3 AAC 306.100(a) (*license conversion*); 3 AAC 306.025 (*expiration of public notice*); 3 AAC 306.035 (*residency; renewals*); 3 AAC 306.025; 3 AAC 306.040 (*ownership change*); 3 AAC 306.045(e) (*transfers*); 3 AAC 306.320; 3 AAC 306.425; 3 AAC 306.530; 3 AAC 306.622; 3 AAC 306.700(a) (*handler permit required*); 3 AAC 306.565(c) (*wholesale concentrates*)
Apr. 11, 2019	3 AAC 306.015(d); 3 AAC 306.025; 3 AAC 306.060; 3 AAC 306.100; 3 AAC 306.110; 3 AAC 306.200; 3 AAC 306.250; 3 AAC 306.310(b); 3 AAC 306.355; 3 AAC 306.370; 3 AAC 306.990(b) (*all citations are related to onsite consumption*)
May 1, 2019	3 AAC 306.100 (*license and renewal fees*)
May 9, 2019	3 AAC 306.055 (*fingerprint requirements*); 3 AAC 306.060 (*local gov't protests*); 3 AAC 306.100 (*handler permit fees*); 3 AAC 306.325; 306.460 (*samples in jars*); 3 AAC 306.703 (*operating plan changes*); 3 AAC 306.990 (*total THC and CBD definitions*)

July 2, 2019	Technical edits and formatting changes
Aug. 21, 2019	3 AAC 306.080 (*license denial*); 3 AAC 306.700; 3 AAC 306.701 (*handler course*)
Sept. 18, 2019	Technical edits to 3 AAC 306.557(6)
March 13, 2020	Tracking and testing. 3 AAC 306.435(a) and (b) are amended; 3 AAC 306.445 adds new subsections; 3 AAC 306.455 is amended; 3 AAC 306.470(a)(1)(B) and (a)(2)(A) are amended; 3 AAC 306.565(c) is amended; 3 AAC 306.660 is repealed and readopted; 3 AAC 306.990(b)(3) is amended.
March 25, 2020	3 AAC 306.025(b); 3 AAC 306.035(a) (public notice form, and renewal deadline). 3 AAC 306.100(d) (increase license fee for testing facilities). 3 AAC 306.620(c); 3 AAC 306.635(a) and (c); 3 AAC 306.640(b) (testing oversight). 3 AAC 306.812 (repealed and readopted).
April 17, 2020	Two emergency regulation projects in response to Covid-19 outbreak became effective: 3 AAC 306.305(a) and 3 AAC 306.310(a) are amended, and 3 AAC 306.995 is a new section, to allow retail stores to provide exterior window and/or curbside pickup. 3 AAC 306.750(h) is a new section relating to commercial marine and air transport carrier. These emergency regulations are not intended to become permanent. They are found at the end of this book.
May 7, 2020	Transportation emergency regulation is repealed: 3 AAC 306.750(a) and (h).
July 24, 2020	Emergency regulation 3 AAC 306.995 becomes permanent. This section is moved up to its respective order in the regular section of the regulations. Amendments to this regulation (sunset of November 15, 2020) will show in this book and become effective on 8/23/20.
August 14, 2020	Emergency regulations 3 AAC 306.305(a) and 3 AAC 306.310(a) expire. Removed from this book.
August 23, 2020	The sunset of November 15, 2020, for 3 AAC 306.995 becomes effective.
October 18, 2020	3 AAC 306.355. Limits on quantity sold to a consumer is amended. 3 AAC 306.015(b)(4) is amended to require corporate officer, and director of a corporation to be residents of the state. 306.040 is repealed and readopted as written (this is to incorporate the requirement that to a new person identified under this section be a resident of the state).

Article 1

Licensing; Fees

3 AAC 306.005. License required

(a) A marijuana establishment may not operate in the state unless it has obtained the applicable marijuana establishment license from the board. The board will issue the following marijuana establishment licenses under this chapter:

(1) a retail marijuana store license, granting authority for activities allowed under AS 17.38.070(a), and subject to the provisions of 3 AAC 306.300 - 3 AAC 306.365 and 3 AAC 306.700 - 3 AAC 306.770;

(2) a marijuana cultivation facility license, as described in 3 AAC 306.405 and 3 AAC 306.410, granting authority for activities allowed under AS 17.38.070(b), and subject to the provisions of 3 AAC 306.400 - 3 AAC 306.480 and 3 AAC 306.700 - 3 AAC 306.770;

(3) a marijuana product manufacturing facility license, as described in 3 AAC 306.505 and 3 AAC 306.515, granting authority for activities allowed under AS 17.38.070(c), and subject to the provisions of 3 AAC 306.500 - 3 AAC 306.570 and 3 AAC 306.700 - 3 AAC 306.755; and

(4) a marijuana testing facility license, granting authority for activities allowed under AS 17.38.070(d), and subject to the provisions of 3 AAC 306.600 - 3 AAC 306.675 and 3 AAC 306.700-3 AAC 306.770. (Eff. 2/21/2016, Register 217; am 10/17/2018, Register 228)

3 AAC 306.010. License restrictions

(a) The board will not issue a marijuana establishment license if the licensed premises will be located within 500 feet of a school ground, a recreation or youth center, a building in which religious services are regularly conducted, or a correctional facility. The distance specified in this subsection must be measured by the shortest pedestrian route from the public entrance of the building in which the licensed premises would be located to the outer boundaries of the school ground, the outer boundaries of the recreation or youth center, the main public entrance of the building in which religious services are regularly conducted, or the main public entrance of the correctional facility. This section does not prohibit the renewal of an existing marijuana

establishment license, a license conversion under 3 AAC 306.047, or the transfer of an existing marijuana establishment license to another person if the licensed premises were in use before the school ground, recreation or youth center, the building in which religious services are regularly conducted, or a correctional facility began use of a site within 500 feet. If an existing marijuana establishment license for premises located within 500 feet of a school ground, a recreation or youth center, a building in which religious services are regularly conducted, or a correctional facility is revoked or expires, the board will not issue another marijuana establishment license for the same premises unless the school ground, the recreation or youth center, the building in which religious services are regularly conducted, or the correctional facility no longer occupies the site within 500 feet.

(b) The board will not issue a marijuana establishment license if the licensed premises will be located in a liquor license premises.

(c) The board will not issue a marijuana establishment license when a local government protests an application under 3 AAC 306.060 on the grounds that the applicant's proposed licensed premises are located in a place within the local government where a local zoning ordinance prohibits the marijuana establishment, unless the local government has approved a variance from the local ordinance.

(d) The board will not issue a marijuana establishment license to a person that

(1) is prohibited under AS 17.38.200(i) from receiving a marijuana establishment license because of a conviction of a felony; if the applicant is a partnership, limited liability company, or corporation, the board will not issue a license if any person named in 3 AAC 306.020(b)(2) is prohibited under AS 17.38.200(i) from obtaining a license; in this paragraph, "conviction of a felony" includes a suspended imposition of sentence;

(2) has been found guilty of

(A) selling alcohol without a license in violation of AS 04.11.010;

(B) selling alcohol to an individual under 21 years of age in violation of AS 04.16.051 or 04.16.052; or

(C) a misdemeanor crime involving a controlled substance, violence against a person, use of a weapon, or dishonesty within the preceding five years; or

(3) has, within two years before submitting an application, been convicted of a class A misdemeanor relating to selling, furnishing, or distributing marijuana or operating an

establishment where marijuana is consumed contrary to state law. (Eff. 2/21/2016, Register 217; am 2/21/2019, Register 229)

3 AAC 306.015. License conditions

(a) The board will issue each marijuana establishment license to a specific individual, to a partnership, including a limited partnership, to a limited liability company, to a corporation, or to a local government. A person other than a licensee may not have a direct or indirect financial interest in the business for which a marijuana establishment license is issued.

(b) Except as allowed in 3 AAC 306.035(h), the board will not issue, renew, or transfer a marijuana establishment license to

(1) an individual or a sole proprietorship unless the individual or proprietor is a resident of the state;

(2) a partnership unless each partner is a resident of the state;

(3) a limited liability company unless the limited liability company is qualified to do business in the state and each member of the limited liability company is a resident of the state; or

(4) a corporation unless the corporation is incorporated or qualified to do business in the state and each corporate officer, director, and shareholder is a resident of the state.

(c) The board will issue each license for a specific location identified on the license as the licensed premises. A marijuana establishment must have a right to possession of its licensed premises at all times, and may not lease its licensed premises to another person for any reason. If a marijuana establishment wishes to reduce or expand the area of the licensed premises used for a marijuana establishment, the marijuana establishment must submit a new line drawing showing the proposed changes to the premises, and must obtain the board's written approval. A marijuana establishment may not relocate its licensed premises to a different place without obtaining a license for the new premises as required under 3 AAC 306.050.

(d) The board will impose other conditions or restrictions on a license or endorsement issued under this chapter when it finds that it is in the interests of the public to do so.

(e) In this section,

(1) "direct or indirect financial interest" means

(A) a legal or equitable interest in the operation of a business licensed under this chapter;

(B) does not include a person's right to receive

(i) rental charges on a graduated or percentage lease-rent agreement for real estate leased to a licensee; or

(ii) consulting fee from a licensee for services that are allowed under this chapter;

(2) "resident of the state" means a person who is eligible at the time of application for the most recent permanent fund dividend under AS 43.23. (Eff. 2/21/2016, Register 217; add'l am 2/21/2016, Register 217; am 2/21/2019, Register 229; am 4/11/2019, Register 230; am 10/18/2020, Register 236)

3 AAC 306.020. Application for new license

(a) An applicant for a new marijuana establishment license must file an application as provided in 3 AAC 306.025, on a form the board prescribes, with the information and documents described in this section, along with the application fee and the annual license fee set out in 3 AAC 306.100, and the fingerprint cards and fees required by 3 AAC 306.055(a). The application must be initiated electronically; the completed application and fees may be filed electronically, or mailed or delivered to the director at the office of the board.

(b) An application for a new marijuana establishment license must include

(1) the name of the applicant and any business name the applicant will use for the proposed marijuana establishment, along with the applicant's state business license number issued under AS 43.70;

(2) the name, mailing address, telephone number, and social security number of each proposed licensee; unless the context requires otherwise, "licensee" means each individual named in an application that complies with this section; an individual to be identified as a licensee under this section includes

(A) if the applicant is an individual or a sole proprietor, the individual or sole proprietor;

(B) if the applicant is a partnership, including a limited partnership, each general partner and each partner holding any interest in the partnership;

(C) if the applicant is a limited liability company, each member holding any ownership interest and each manager;

(D) if the applicant is a corporation, each owner of any of the corporation's

stock, each officer, and each director; and

(E) if the applicant is a local government, an authorized official of the local government;

(3) for each applicant that is not an individual, the applicable documents and information as follows:

(A) for a partnership, including a limited partnership, the partnership agreement, the name of each general or managing partner, and a list of all partners with the percentage of ownership of each partner;

(B) for a limited liability company, the limited liability company agreement, and a list of all members with the percentage of ownership of each member;

(C) for a corporation, the certificate of incorporation, the corporate bylaws, the name of each corporate officer and each director, and a list of all shareholders with the percentage of ownership of each shareholder;

(D) for a local government, a resolution of the governing body approving the application and designating an official responsible for the proposed marijuana establishment;

(4) for each person listed in compliance with (2) of this subsection, a statement of financial interest on a form the board prescribes;

(5) for each applicant that is not an individual, the name of the individual licensee or designated government official listed in the application under (2) of this subsection who is responsible for

(A) management of the marijuana establishment; and

(B) compliance with state laws;

(6) an electronic mail address at which the applicant agrees to receive any correspondence from the board before and after it receives a license; an applicant and a licensee must ensure that any electronic mail address provided to the board is current so that the board can contact the applicant or licensee at any time;

(7) the type of license the applicant is requesting;

(8) the address of the premises to include global positioning system (GPS) coordinates where the applicant intends to operate a marijuana establishment, and a detailed diagram of the proposed licensed premises; the diagram must show all entrances and boundaries

of the premises, restricted access areas, and storage areas;

(9) the title, lease, or other documentation showing the applicant's sole right to possession of the proposed licensed premises;

(10) affidavit showing where and when the applicant posted notice of the application, and proof of advertising as required in 3 AAC 306.025(b); and

(11) additional information that the board requires as follows:

(A) for a retail marijuana store, the information required under 3 AAC 306.315;

(B) for a marijuana cultivation facility, the information required under 3 AAC 306.420;

(C) for a marijuana product manufacturing facility, the information required under 3 AAC 306.520;

(D) for a marijuana testing facility, the information required under 3 AAC 306.615.

(c) A marijuana establishment license application must include the applicant's operating plan, in a format the board prescribes, describing to the board's satisfaction the proposed marijuana establishment's plans for

(1) security;

(2) inventory tracking of all marijuana and marijuana products on the premises;

(3) employee qualification and training;

(4) waste disposal;

(5) transportation and delivery of marijuana and marijuana products; and

(6) signage and advertising.

(d) An application for a marijuana establishment license must be signed by

(1) the applicant, if the applicant is an individual;

(2) an authorized general partner if the applicant is a partnership, including a limited partnership;

(3) a member who owns at least 10 percent of the limited liability company if the applicant is a limited liability company;

(4) the authorized officers of the corporation if the applicant is a corporation; or

(5) a designated official if the applicant is a local government.

(e) Each person signing an application for a marijuana establishment license must declare under penalty of unsworn falsification that

(1) the application is true, correct, and complete;

(2) the applicant has read and is familiar with AS 17.38 and this chapter; and

(3) the applicant will provide all information the board requires in support of the application. (Eff. 2/21/2016, Register 217; am 8/11/2018, Register 227)

Editor's note: Forms and instructions for filing an application for a marijuana establishment license can be obtained online at the Marijuana Control Board's website. The board's Internet address is www.commerce.alaska.gov/web/abc/ and its office is at 550 West 7th Ave. Suite 1600, Anchorage, AK 99501. The board's telephone number is (907) 269-0350.

3 AAC 306.025. Application procedure

(a) An applicant must initiate a new marijuana establishment license or endorsement application on a form the board prescribes, using the board's electronic system, to create a public notice form.

(b) After initiating a new marijuana license or endorsement application, the applicant must give notice of the application to the public by

(1) posting a copy of the public notice form for 10 days at

(A) the location of the proposed licensed premises; and

(B) one other conspicuous location in the area of the proposed premises;

(2) publishing an announcement once a week for three consecutive weeks in a newspaper of general circulation in the area; in an area where no newspaper circulates, the applicant must arrange for broadcast announcements on a radio station serving the local area where the proposed licensee seeks to operate twice a week for three successive weeks during triple A advertising time; the newspaper or radio notice must state

(A) the name of the applicant;

(B) the name and location of the proposed premises;

(C) the type of license or endorsement applied for along with a citation to a provision of this chapter authorizing that type of license or endorsement; and

(D) a statement that any comment or objection may be submitted to the board; and

(3) submitting a copy of the public notice form to

(A) each local government with jurisdiction over the licensed premises; and

(B) any community council in the area of the proposed licensed premises.

(c) After the applicant completes the notice requirements in (b) of this section and submits each remaining application requirement listed in 3 AAC 306.020, the applicant must pay the application and license fees set out in 3 AAC 306.100. The notice requirements in (b) of this section must be given within the 90 days preceding the submittal of all application requirements listed in 3 AAC 306.020 and the application and license fee.

(d) When the director receives an application for a marijuana establishment license or endorsement, the director shall determine if the application is complete. Any application for a marijuana establishment license or endorsement that the director receives without the application and license fee is incomplete. If the director determines the application is complete, the director shall immediately give written notice to

(1) the applicant;

(2) each local government with jurisdiction over the applicant's proposed licensed premises;

(3) the community council if the proposed licensed premises are located within the boundary of a community council established by municipal charter or ordinance; and

(4) any nonprofit community organization that has requested notification in writing.

(e) If an application for a marijuana establishment license or endorsement is incomplete, the director shall notify the applicant by electronic mail at the address provided by the applicant and shall either

(1) return an incomplete application in its entirety; or

(2) request the applicant to provide additional identified items needed to complete the application.

(f) When the director informs an applicant that its application is incomplete as provided in (e) of this section, the applicant must complete the application not later than 90 days after the date of the director's notice. If an applicant fails to complete its application during the 90-day period after the director's notice, the applicant must file a new application and pay a new

application fee to obtain a marijuana establishment license or endorsement.

(g) The director may, not less than 90 days after initiation of an application, inform an applicant by electronic mail at the address provided by the applicant that missing application requirements listed in 3 AAC 306.020 must be submitted within 90 days. If an applicant fails to submit all missing application requirements during the 90-day period after the director's notice, the applicant must file a new application and pay a new application fee to obtain a marijuana establishment license. (Eff. 2/21/2016, Register 217; am 12/28/2017, Register 224; am 2/21/2019, Register 229; am 4/11/2019, Register 230)

3 AAC 306.030. Petition for license in area with no local government

(a) The board will not approve a new license in an area outside, but within 50 miles of, the boundary of a local government unless the board receives a petition to issue the license signed by a majority of the permanent residents residing within one mile of the proposed premises.

(b) The board will not approve a new license in an area that is 50 miles or more from the boundary of a local government unless the board receives a petition to issue the license containing the signatures of two-thirds of the permanent residents residing within a radius of five miles of the United States post office station nearest to the proposed licensed premises. If there is no United States post office station within a radius of five miles of the proposed licensed premises, the petition must be signed by two-thirds of the permanent residents residing within a five-mile radius of the proposed licensed premises.

(c) A petition authorized by this section must be on a form the board prescribes. The applicant must obtain the required signatures within the 90-day period immediately before submitting the petition to the board. A signature may not be added to or removed from the petition after the board has approved the application.

(d) In this section, "permanent resident" means a person 21 years of age or older who has established a permanent place of abode. A person may be a permanent resident of only one place. (Eff. 2/21/2016, Register 217)

3 AAC 306.035. Application for renewal of license

(a) On or before May 1 of each year, the director shall send notice that a marijuana establishment with a license in active and operating status must file a renewal application not later than June 30 of the current year. The director shall send the notice to the marijuana

establishment's electronic mailing address on file with the board. In the notice the director shall include a hyperlink for the marijuana establishment to access the electronic renewal application by means of the Internet, along with instructions on using and submitting the form. Any marijuana establishment with a license in active and operating status on or before June 30 of the current year must submit the completed renewal application, along with the license renewal fee, to the director not later than June 30 of each year. If June 30 falls on a Saturday or Sunday, the deadline is extended to 4:30 p.m. on the first business day following June 30. If mailed, the complete renewal application and fee must be postmarked by the deadline. A marijuana establishment must maintain a current electronic mailing address on file with the director. A marijuana establishment is not excused from filing a renewal application as required in this section even if the marijuana establishment fails to receive a renewal notice from the director.

(b) A marijuana establishment's renewal application must

(1) identify the license sought to be renewed by license number, license type, establishment name, and premises address;

(2) provide the information required for a new license application under 3 AAC 306.020(b)(1) - (9);

(3) repealed 2/21/2019;

(4) report, for each licensee listed in 3 AAC 306.020(b)(2),

(A) any criminal charge on which that licensee has been convicted in the previous two calendar years: and

(B) any civil violation of AS 04, AS 17.38, or this chapter in the previous two calendar years; and

(5) declare under penalty of unsworn falsification that

(A) the application is true, correct and complete;

(B) the applicant has read and is familiar with AS 17.38 and this chapter; and

(C) the applicant will provide all information the board requires in support of the renewal application.

(c) If the director determines that the renewal application is complete, the director shall give written notice of a renewal application to

(1) the applicant;

(2) each local government with jurisdiction over the applicant's proposed licensed premises;

(3) the community council if the proposed licensed premises are located within the boundary of a community council established by municipal charter or ordinance; and

(4) any nonprofit community organization that has requested notification in writing.

(d) The director may require an applicant for renewal of a license under this chapter to submit fingerprints and pay fees as required by 3 AAC 306.055(a).

(e) A licensee required to submit a renewal application under (a) of this section that does not deliver a renewal application to the director on or before June 30 of each year is delinquent and must pay the late renewal application fee under 3 AAC 306.100(b) with the renewal application.

(f) On or before August 15 of each year, the director shall deliver a notice of expiration to each marijuana establishment required to submit a renewal application under (a) of this section that has not filed a complete application for renewal of a license, along with any applicable affidavit and the required fee, unless the marijuana establishment has notified the director that it does not intend to seek a renewal of its license. The director shall deliver the notice of expiration to the electronic mail address the marijuana establishment has provided to the director. A marijuana establishment is not excused from filing a license renewal application not later than August 31 of each year even if the marijuana establishment does not receive the notice of expiration described in this section.

(g) If a marijuana establishment required to submit a renewal application under (a) of this section fails to deliver a complete license renewal application or fails to pay the required renewal fee and the late renewal application fee on or before August 31 of each year, that marijuana establishment license expires at 12:00 midnight on August 31 of that year. A holder of an expired license shall immediately surrender the license to the board. Any holder of an expired license that seeks authority to operate must file a complete new application under 3 AAC 306.020, and 3 AAC 306.025, along with the required fees.

(h) The board may renew a license where a licensee is not considered a resident of the state as defined at 3 AAC 306.015(e)(2), if, as part of the renewal application, the licensee submits documentation to the board’s satisfaction that

(1) the licensee's primary residence is in the state;

(2) the licensee has good cause for not meeting the requirements to be a resident of the state as defined at 3 AAC 306.015(e)(2); and

(3) the cause of not meeting the requirements to be a resident of the state as defined at 3 AAC 306.015(e)(2) is temporary. (Eff. 2/21/2016, Register 217; am 12/28/2017, Register 224; am 2/21/2019, Register 229; am 3/25/20, Register 233)

3 AAC 306.040. Ownership change

(a) An application for an ownership change shall be submitted on a form prescribed by the board.

(b) If any change required to be submitted under this section will result in a change in controlling interest of the marijuana establishment license, the marijuana establishment must file an application for transfer of license to another person under 3 AAC 306.045.

(c) An individual identified in this section shall submit the individual's fingerprints and the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information. The director shall follow the procedure set out in 3 AAC 306.055(b) for submitting the fingerprints of any individual added under this section.

(d) An individual identified in this section shall be a resident of the state as required under 3 AAC 306.015(b)(4) and 3 AAC 306.015(e)(2).

(e) The director shall approve an ownership change application when any new owner

(1) is not disqualified under 3 AAC 306.010(d), 3 AAC 306.015(b), 3 AAC 306.300(b), 3 AAC 306.400(c), 3 AAC 306.500(c), or 3 AAC 306.605(c); and

(2) is a resident of the state.

(f) In this section, "ownership change" means

(1) if the licensee is a partnership, including a limited partnership, any change in the identity of the partners, or in the ownership percentages held by any partners;

(2) if the licensee is a limited liability company, any change in the identity of the members or managers, or in the ownership percentage held by any member; or

(3) if the licensee is a corporation, any change in its corporate officers, any sale of corporate stock to a person not currently an owner, any change of the percentage ownership of an existing shareholder, or any change in its directors. (Eff. 2/21/2016, Register 217; am 7/19/2017, Register 223; am 2/21/2019, Register 229; am 10/18/2020, Register 236)

3 AAC 306.045. Application for transfer of a license to another person

(a) A person may not receive or transfer a marijuana establishment license or a controlling interest in a marijuana establishment license issued to a partnership, including a limited partnership, a limited liability company, a corporation, or a local government, without applying for and receiving the written consent of the board. Transfer of a license includes a sale of all or part of the interest of an individual owner.

(b) An application for transfer of a marijuana establishment license, or of a controlling interest in a marijuana establishment license issued to a partnership, a limited liability company, a corporation, or a local government, must be filed in writing on a form the board prescribes, in compliance with the application procedure set out in 3 AAC 306.025. The application must name the current holder of the marijuana establishment license and the proposed transferee, including all persons listed in 3 AAC 306.020 if the transferee is a partnership, limited liability company, a corporation, or a local government. The application must contain

(1) the same information about each transferee as is required of an applicant for a new license under 3 AAC 306.020;

(2) a statement, under oath, executed by the current holder of the marijuana establishment license, listing all debts of the business, all taxes the business owes, current contact information for each creditor, and an affirmation that the current holder of the marijuana establishment license has submitted a copy of the transfer application to all creditors; and

(3) any other information required by the board for the type of marijuana establishment license sought to be transferred.

(c) When the board receives a complete application for transfer of a license to another person, the director shall immediately send written notice of the proposed transfer to

(1) each listed creditor of the current holder of the marijuana establishment license, along with the amount shown as owed to that creditor;

(2) each local government with jurisdiction over the applicant's proposed licensed premises;

(3) the community council if the licensed premises are located within the boundary of a community council established by municipal charter or ordinance; and

(4) any nonprofit community organization that has requested notification in

writing.

(d) A current holder of a marijuana establishment license must submit a license renewal application before or at the same time as an application for a transfer of a marijuana establishment license that is submitted after April 30 and before July 1.

(e) When a transferee intends to continue to operate a marijuana license with the operating plan approved by the board for the transferor, the transferee may submit a form approved by the board certifying that the transferee is making no changes to the operating plan or licensed premises, instead of submitting information required by 3 AAC 306.020(b)(8), 3 AAC 306.020(c), 3 AAC 306.315(2), 3 AAC 306.420, 3 AAC 306.520(2) and (3), and 3 AAC 306.615. (Eff. 2/21/2016, Register 217; am 12/28/2017, Register 224; am 2/21/2019, Register 229)

3 AAC 306.047. License conversion

(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 marijuana product manufacturing facility license, or an existing 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.

(b) To qualify for a license conversion under this section, neither the licensee nor the license location may change.

(c) The license conversion application must contain

(1) an affidavit showing where and when the applicant posted notice of the application, and proof of advertising as required in 3 AAC 306.025(b);

(2) any changes proposed to the approved operating plan;

(3) a detailed diagram of the proposed licensed premises; the diagram must show all entrances and boundaries of the premises, restricted access areas, and storage areas;

(4) the title, lease, or other documentation showing the licensee's sole right to possession of the proposed licensed premises, if the proposed licensed premises for the converted license differ from the existing licensed premises;

(5) the balance of the license fee, if the post-conversion license fee is greater than

the pre-conversion license fee;

(6) the application fee; and

(7) any other information required by the board. (Eff. 2/21/2019, Register 229)

3 AAC 306.050. Relocation of licensed premises not allowed

A marijuana establishment license may not be relocated to any other premises. A holder of a marijuana establishment license that wishes to operate a marijuana establishment at a different location must submit a new application for any new premises, and must surrender an existing license for any premises where the marijuana establishment does not intend to continue its operation. (Eff. 2/21/2016, Register 217)

3 AAC 306.055. Criminal justice information and records

(a) When filing an application for a new marijuana establishment license, transfer of a license, or ownership change, the applicant, including each individual listed in 3 AAC 306.020(b)(2), must submit the person's fingerprints and the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information. An individual who has submitted fingerprints and fees under this section is not required to submit a new set of fingerprints and fees for a second or subsequent application for a new license, transfer, or ownership change, if the second or subsequent application is submitted not later than 12 calendar months after the date criminal justice information is received in response to the initial submission of fingerprints and fees.

(b) The director shall submit the fingerprints to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62. The board will use the information obtained under this section to determine if an applicant is qualified for a marijuana establishment license.

(c) In this section, "criminal justice information" has the meaning given in AS 12.62.900. (Eff. 2/21/2016, Register 217; am 5/9/2019, Register 230)

3 AAC 306.060. Protest by local government

(a) Not later than 60 days after the director sends notice of an application for a new marijuana establishment license, a new onsite consumption endorsement, renewal of a marijuana establishment license, renewal of an onsite consumption endorsement, license conversion, endorsement, or transfer of a marijuana establishment license to another person, a local

government may protest the application by sending the director and the applicant a written protest and the reasons for the protest. The director may not accept a protest received after the 60-day period. If the protest is a conditional protest, the board will require the applicant to show to the board's satisfaction that the requirements of the local government have been met before the director may issue the license. If the protest is not a conditional protest, the board will deny the application unless the board finds that the protest is arbitrary, capricious, and unreasonable.

(b) A local government may recommend that the board approve an application for a new license, a new onsite consumption endorsement, renewal of a license, renewal of an onsite consumption endorsement, license conversion, or transfer of a license to another person subject to a condition. The board will impose a condition a local government recommends unless the board finds the recommended condition is arbitrary, capricious, and unreasonable. If the board imposes a condition a local government recommends, the local government shall assume responsibility for monitoring compliance with the condition unless the board provides otherwise.

(c) If a local government determines that a marijuana establishment has violated a provision of AS 17.38, this chapter, or a condition the board has imposed on the licensee, the local government may notify the board. Unless the director finds that the local government's notice is arbitrary, capricious, and unreasonable, the director shall prepare the determination as an accusation against the licensee under AS 44.62.360 and conduct proceedings to resolve the matter as provided under 3 AAC 306.820.

(d) In this section,

(1) "local government" means each local government with jurisdiction over the licensed premises;

(2) "conditional protest" means a protest by a local government based on the local government's requirements that the applicant must meet before licensure, and that the applicant has not yet met but that the local government expects the applicant will be able to meet within a reasonable period of time. (Eff. 2/21/2016, Register 217; am 12/28/2017, Register 224; am 2/21/2019, Register 229; am 4/11/2019, Register 230; am 5/9/2019, Register 230)

3 AAC 306.065. Public participation

A person may object to an application for a new license, renewal of a license, license conversion, or transfer of a license to another person by submitting a written statement of reasons for the objection to the board and the applicant not later than 30 days after the director has determined

that the application is complete and has given written notice to the local government in accordance with 3 AAC 306.025. The objection must be sent to the applicant at the mailing address or electronic mail address provided in the notice of application and also to the board. If the board determines to conduct a public hearing under this section, an interested person may give oral testimony at the public hearing. (Eff. 2/21/2016, Register 217; am 12/28/2017, Register 224; am 2/21/2019, Register 229)

Editor's note: The address for sending objections to the Marijuana Control board is the Anchorage office of the Alcohol and Marijuana Control Office, 550 West 7th Avenue, Suite 1600, Anchorage, AK 99501; email: marijuana.licensing@alaska.gov.

3 AAC 306.070. Hearing on public protest

The board may, on its own initiative or in response to an objection or protest, hold a hearing to ascertain the reaction of the public or a local government to an application. The director shall send notice of a hearing under this section as provided in AS 44.62.330 - 44.62.630 (Administrative Procedure Act). (Eff. 2/21/2016, Register 217)

3 AAC 306.075. Procedure for action on license application

(a) The board will decide whether to grant or deny an application not later than 90 days after receiving the complete application. However, the board will not grant or deny the application before the time allowed for a protest under 3 AAC 306.060, unless the local government waives its right to protest.

(b) Not later than seven days before the date set for board action on applications, the director shall post a meeting agenda listing the matters scheduled for action at that meeting. The board may review an application without additional notice to the applicant.

(c) The board will consider any written objection, protest, suggested condition, or petition, and also will consider any testimony received at a hearing on public protest held under 3 AAC 306.070 when it considers the application. The director shall retain the written objection, protest, or suggested condition or petition, and the hearing record as part of the permanent record of the board's review of an application. (Eff. 2/21/2016, Register 217; am 12/28/2017, Register 224; am 2/21/2019, Register 229)

3 AAC 306.080. Denial of license application

(a) After review of the application, including the applicant's proposed operating plan and all relevant information, the board will deny an application for a new license if the board finds that

(1) the application is not complete as required under the applicable provisions of 3 AAC 306.020 - 3 AAC 306.055, or contains any false statement of material fact;

(2) the license would violate any restriction in 3 AAC 306.010 or 3 AAC 306.015;

(3) the license would violate any restriction applicable to the particular license type authorized under this chapter;

(4) the license is prohibited under this chapter as a result of an ordinance or election conducted under AS 17.38.210, 3 AAC 306.200, or 3 AAC 306.230;

(5) the applicant’s actions or the operating plan does not adequately demonstrate that the applicant will comply with applicable provisions of this chapter;

(6) the license would not be in the best interests of the public;

(7) a protest by the local governing body is not arbitrary, capricious, and unreasonable.

(b) After review of the application and all relevant information, the board will deny an application for renewal of a marijuana establishment license if the board finds

(1) any cause listed in (a) of this section;

(2) repealed 8/21/2019;

(3) that the license has been operated in violation of a condition or restriction the board previously imposed;

(4) that the applicant is delinquent in the payment of taxes due in whole or in part from operation of the licensed business;

(5) that a protest by the local governing body is not arbitrary, capricious, and unreasonable; or

(6) that the applicant has lost right to possession of the applicant’s licensed premises.

(c) After review of the application and all relevant information, the board will deny an application for transfer of license to another person if the board finds

(1) any cause listed in (a) of this section;

(2) that the transferor has not paid all debts or taxes arising from the operation of the business licensed under this chapter unless the transferor gives security for the payment of the debts or taxes satisfactory to the creditor or taxing authority;

(3) that transfer of the license to another person would result in violation of the provisions of this chapter relating to identity of licensees and financing of licensees;

(4) that the prospective transferee does not have the qualifications of an original applicant required under this chapter; or

(5) that a protest by the local governing body is not arbitrary, capricious, and unreasonable.

(d) If the board denies an application for a new license, renewal of a license, license conversion, or transfer of a license to another person, the board will, not later than 15 days after the board meeting at which the application was denied, furnish a written statement of issues to the applicant, explaining the reason for the denial in clear and concise language, and identifying any statute or regulation on which the denial is based. In the notice of denial the board will inform the applicant of the right to an informal conference under 3 AAC 306.085 and to a formal hearing under 3 AAC 306.090.

(e) After review of the application and all relevant information, the board will deny an application for license conversion if the board finds that

(1) the application contains any false statement of material fact;

(2) the license would violate any restriction applicable to the particular license type authorized under this chapter;

(3) the license is prohibited under this chapter as a result of an ordinance or election conducted under AS 17.38.210, 3AAC 306.200, or 3 AAC 306.230;

(4) the applicant's actions or the application does not adequately demonstrate that the applicant will comply with applicable provisions of this chapter;

(5) a protest by the local governing body is not arbitrary, capricious, and unreasonable; or

(6) the license conversion would not be in the best interest of the public. (Eff. 2/21/2016, Register 217; am 2/21/2019, Register 229; am 8/21/2019, Register 231)

3 AAC 306.085. Informal conference

(a) If an applicant for a new license, renewal of a license, license conversion, or transfer

of a license to another person is aggrieved by an action of the board denying the application, the applicant may, not later than 15 days after the date of the written notice of denial, request an informal conference with the director or the board. An informal conference requested under this section must be held at a time and place convenient to the applicant and the board, but not later than the next scheduled meeting of the board. An informal conference may be conducted telephonically.

(b) If the informal conference does not resolve the matter to the applicant's satisfaction, the applicant may, not later than 15 days after the last day of the informal conference, request a formal hearing under 3 AAC 306.090 by filing a notice of defense in compliance with AS 44.62.390(b). (Eff. 2/21/2016, Register 217; am 2/21/2019, Register 229)

3 AAC 306.090. Formal hearing

(a) If an applicant for a new license, renewal of a license, license conversion, or transfer of a license is aggrieved by an action of the board denying the application, the applicant may request a formal hearing by filing a notice of defense in compliance with AS 44.62.390 not later than 15 days after the date of the written notice of the denial, or as provided in 3 AAC 306.085(b) if the applicant requested and participated in an informal conference. Failure to file a notice of defense as provided in this section constitutes a waiver of the right to a formal hearing.

(b) When an aggrieved person requests a hearing under the section, the board may request the office of administrative hearings to conduct the hearing in compliance with due process, AS 44.62.330 - AS 44.62.630 (Administrative Procedure Act), and 2 AAC 64.100 - 2 AAC 64.990, as applicable. (Eff. 2/21/2016, Register 217; am 2/21/2019, Register 229)

3 AAC 306.095. Appeals

(a) An aggrieved applicant or marijuana establishment license holder may appeal to the board regarding any action of the director, or an employee or agent of the board regarding an application for a new license, a license renewal, a license conversion, or a transfer of license to another person.

(b) An applicant or marijuana establishment license holder aggrieved by a final decision of the board regarding an application for a new license, a license renewal, a license conversion, or a transfer of license to another person may appeal to the superior court under AS 44.62.560.

(Eff. 2/21/2016, Register 217; am 2/21/2019, Register 229)

3 AAC 306.100. Fees; refund

(a) The non-refundable application fee for a new marijuana establishment license, an application for license conversion, or an application to transfer a license to another person is $1,000. The non-refundable application fee for a new onsite consumption endorsement is $1,000.

(b) The non-refundable application fee for a license renewal application is $600. If a renewal application is late as provided under 3 AAC 306.035(e), an additional non-refundable late renewal application fee is $1,000. The non-refundable application fee for renewal of an onsite consumption endorsement is $600.

(c) The non-refundable fee to request board approval of a change in a licensed marijuana establishment's business name, ownership, licensed premises diagram, operating plan, or proposed new marijuana product is $250. A change fee does not apply to an application for transfer of a license or a transfer of controlling interest to another person.

(d) The annual license or endorsement fee, to be paid with each application for a new marijuana establishment facility license or endorsement and each license or endorsement renewal application is

(1) for a new retail marijuana store license, $5,000, and for a renewed retail marijuana store license, $7,000;

(2) for a new limited marijuana cultivation facility license, $1,000, and for a renewed limited marijuana cultivation facility license, $1,400;

(3) for a new standard marijuana cultivation facility license, $5,000, and for a renewed standard marijuana cultivation facility license, $7,000;

(4) for a new marijuana concentrate manufacturing facility license, $1,000, and for a renewed marijuana concentrate manufacturing facility license, $2,000;

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

(6) for a new marijuana testing facility license, $1,000, and for a renewed marijuana testing facility license $5,000;

(7) for an onsite consumption endorsement to a retail marijuana store license, $2,000.

(e) The fee for a new marijuana handler permit card is $50. The fee for a renewed

marijuana handler permit card is $50.

(f) If the board denies an application for a license or endorsement, or for renewal of a license or endorsement, the board will refund the annual license or endorsement fee. The board will not refund a license or endorsement fee after the license or endorsement has been issued.

(g) Processing fees for late renewal after failure to pay taxes are as follows:

(1) if a licensee pays its delinquent tax after a local government protests renewal of the license, but before the board denies license renewal, $200;

(2) if a licensee pays its delinquent tax after appealing the board's denial of a license renewal, but before a hearing officer is appointed to hear the applicant's appeal, $500;

(3) if a licensee pays its delinquent tax after appealing the board's denial of a license renewal, but before the administrative hearing begins, $5,000;

(4) if a licensee pays its delinquent tax after an administrative hearing that results in a hearing officer recommendation to deny the license renewal, $10,000.

(h) The fee for a second or subsequent inspection for a new marijuana establishment is $500. The fee applies to an inspection requested after a marijuana establishment fails a preliminary inspection, and is not issued a license. The director may waive the fee upon submission of a written request. (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)

3 AAC 306.110. Endorsements generally

(a) An endorsement expands the boundaries of a licensed premises or the authorized activities of the licensed business.

(b) Only the board may issue an endorsement.

(c) An endorsement is valid only in conjunction with a license. An endorsement may only be transferred to another person if the license for which the endorsement was issued is also transferred to that person. An endorsement expires if the license expires or the license is revoked. An endorsement is suspended if the license is suspended. (Eff. 4/11/2019, Register 230)

Article 2

Local Options

3 AAC 306.200. Local options

(a) If a majority of the persons voting on the question vote to approve the option, or if a local government's assembly or city council passes an ordinance to the same effect, the local government shall adopt a local option to prohibit

(1) the sale or importation for sale of marijuana and any marijuana product;

(2) the operation of any marijuana establishment, including one or more of the following license or endorsement types:

(A) a retail marijuana store;

(B) a marijuana cultivation facility;

(C) a marijuana product manufacturing facility;

(D) a marijuana testing facility;

(E) an onsite consumption endorsement to a marijuana retail store license;

(3) specific operational characteristics of an onsite consumption endorsement to a marijuana retail store license, including consumption by smoking or vaping, or outdoor consumption.

(b) A ballot question to adopt a local option under this section must at least contain language substantially similar to: "Shall (name of local government) adopt a local option to prohibit (local option under (a) of this section)? (yes or no)."

(c) The ballot for an election on the options set out in (a)(2) of this section must include a brief explanation of the activity that each license or endorsement type on the ballot may carry out.

(d) If a local government dissolves under AS 29.06.450, any marijuana establishment license issued to that local government expires when the local government dissolves.

(e) A local government may not prohibit the personal use and possession of marijuana and marijuana products as authorized under AS 17.38.020.

(f) Nothing in 3 AAC 306.200 - 3 AAC 306.260 precludes a local government from applying for a marijuana establishment license or endorsement under other provisions of this

chapter. (Eff. 2/21/2016, Register 217; am 4/11/2019, Register 230)

3 AAC 306.210. Change of local option

If a majority of persons voting on the question vote to approve a local option different from one previously adopted under 3AAC 306.200 and currently in effect, or if the local government's assembly or city council passes an ordinance to the same effect, the local government shall change the local option to the newly approved option. A ballot question to change a local option under this section must at least contain language substantially similar to: "Shall (name of local government) change the local option currently in effect, that prohibits (current local option), and adopt in its place a local option to prohibit (proposed local option)? (yes or no)." (Eff. 2/21/2016, Register 217)

3 AAC 306.220. Removal of local option

(a) If a majority of the persons voting on the question vote to remove a local option previously adopted under 3 AAC 306.200 or 3 AAC 306.210 and currently in effect, or if a local government's assembly or city council passes an ordinance to the same effect, that local option is repealed effective the first day of the month after the election is certified. A ballot question to remove a local option under this section must at least contain language substantially similar to: "Shall (name of local government) remove the local option currently in effect, that prohibits (current local option), so that no local option continues in effect? (yes or no)."

(b) When issuing a license within the boundaries of a local government that has removed a local option, the board will give priority to any formerly licensed applicant whose license was not renewed because of the results of the previous local option election. However, an applicant described in this subsection does not have a legal right to a license and the board is not required to approve the application. (Eff. 2/21/2016, Register 217)

3 AAC 306.230. Procedure for local option election

When it receives a petition to adopt, change, or remove a local option under 3 AAC 306.200 - 3AAC 306.220, the local government shall conduct the election in compliance with the initiative process under the local government's election ordinances and regulations and the applicable provisions of AS 29. (Eff. 2/21/2016, Register 217)

3 AAC 306.240. Prohibition of importation or purchase after election

(a) If a majority of the voters vote to prohibit the importation for sale of marijuana and

any marijuana product under 3 AAC 306.200(a)(1), or if the local government's assembly or city council passes an ordinance to the same effect, a person, beginning on the first day of the month after the results of the election are certified, may not knowingly bring, send, or transport marijuana or marijuana products for sale into the area within the boundary of the local government.

(b) A person who resides within the boundary of a local government that has adopted a local option under 3 AAC 306.200(a) may not purchase marijuana or a marijuana product from another person that has brought, sent, or transported marijuana or a marijuana product into the local government for sale in violation of the local option.

(c) Notwithstanding (a) or (b) of this section, a licensed marijuana establishment may transport marijuana or any marijuana product through the boundaries of a local government that has prohibited importation or purchase of marijuana if the marijuana or marijuana product is shipped with an attached transport manifest created in compliance with 3 AAC 306.750 and documenting that the shipment originates and terminates in a place that does not prohibit importation and purchase of marijuana or a marijuana product.

(d) In this section,

(1) "bring" means to carry or convey or to attempt or solicit to carry or convey;

(2) "send"

(A) means to cause to be taken or distributed or to attempt or solicit or cause to be taken or distributed;

(B) includes use of the United States Postal Service;

(3) "transport"

(A) means to ship by any method;

(B) includes delivering or transferring or attempting or soliciting to deliver or transfer marijuana or marijuana products to be shipped to, delivered to, or left or held for pickup by any person. (Eff. 2/21/2016, Register 217)

3 AAC 306.250. Effect on licenses of restriction on sale

If a majority of the voters vote under 3 AAC 306.200(a) to prohibit sale of marijuana and marijuana products or the operation of marijuana establishments, or if the assembly or city council passes an ordinance to the same effect, the board will not issue, renew, or transfer to another person a license for a marijuana establishment, or issue or renew an endorsement, with

premises located within the boundary of the local government. A license for a marijuana establishment or endorsement within the boundary of the local government is void 90 days after the results of the election are certified, or after the effective date of an ordinance to the same effect if the local government opted out by ordinance. A license or endorsement that expires during the 90 days after the certification of a local option election, or during the period of time between passage of an ordinance to the same effect and the effective date of that ordinance, may be extended until it is void under this section, by payment of a prorated portion of the annual license or endorsement fee. (Eff. 2/21/2016, Register 217; am 7/27/2017, Register 223; am 4/11/2019, Register 230)

3 AAC 306.260. Notice of the results of a local option election

If a majority of the voters vote to adopt, change, or remove a local option under 3 AAC 306.200 - 3 AAC 306.220 or if the assembly or city council passes an ordinance to the same effect, the board will notify the Department of Law and the Department of Public Safety of the results of the election. (Eff. 2/21/2016, Register 217)

Article 3

Retail Marijuana Stores

3 AAC 306.300. Retail marijuana store license required

(a) Except as permitted under AS 17.38.020, a person may not sell, give, distribute, deliver, or offer to sell, give, distribute, or deliver marijuana or any marijuana product to a consumer unless the person has obtained a retail marijuana store license from the board in compliance with this chapter, or is an employee or agent acting for a licensed retail marijuana store operating in compliance with this chapter. A person seeking a retail marijuana store license must

(1) submit an application for a retail marijuana store license on a form the board prescribes, including the information set out under 3 AAC 306.020 and 3 AAC 306.315; and

(2) demonstrate, to the board's satisfaction, that the applicant will operate in compliance with

(A) each applicable provision of 3 AAC 306.300 - 3 AAC 306.365 and 3 AAC 306.700 - 3 AAC 306.770; and

(B) each applicable public health, fire, safety, and tax code and ordinance of the state and the local government in which the applicant's proposed licensed premises are located.

(b) A licensee of any retail marijuana store, or an employee or agent of a retail marijuana store, may not have an ownership interest in, or a direct or indirect financial interest in a licensed marijuana testing facility. (Eff. 2/21/2016, Register 217; am 10/17/2018, Register 228)

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 for consumption off the licensed premises;

(2) 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 for consumption off the licensed premises;

(3) store marijuana and marijuana products on the licensed premises in a manner consistent with 3 AAC 306.710 - 3 AAC 306.720;

(4) 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.

(b) This section does not prohibit a licensed retail marijuana store from refusing to sell marijuana or a marijuana product to a consumer. (Eff. 2/21/2016, Register 217)

3 AAC 306.310. Acts prohibited at retail marijuana store

(a) A licensed retail marijuana store may not sell, give, distribute, deliver, or offer to sell, give, distribute, or deliver, marijuana or a marijuana product

(1) to a person under 21 years of age;

(2) to a person that is under the influence of an alcoholic beverage, inhalant, or controlled substance;

(3) that is not labeled and packaged as required in 3 AAC 306.345 and

(A) 3 AAC 306.470 and 3 AAC 306.475; or

(B) 3 AAC 306.565 and 3 AAC 306.570;

(4) in a quantity exceeding the limit set out in 3 AAC 306.355;

(5) over the Internet; a licensed retail marijuana store may only sell marijuana or a marijuana product to a consumer who is physically present on the licensed premises;

(6) after the expiration date shown on the label of the marijuana or marijuana product.

(b) A licensed retail marijuana store may not

(1) conduct business on or allow a consumer to access the retail marijuana store's licensed premises between the hours of 5:00 a.m. and 8:00 a.m. each day;

(2) allow a person to consume marijuana or a marijuana product on the retail marijuana store's licensed premises, except as provided in 3 AAC 306.305(a)(4);

(3) offer or deliver to a consumer, as a marketing promotion or for any other reason,

(A) free marijuana or marijuana product, including a sample; or

(B) alcoholic beverages, free or for compensation; or

(4) allow intoxicated or drunken persons to enter or to remain on the licensed premises. (Eff. 2/21/2016, Register 217; am 4/11/2019, Register 230)

3 AAC 306.315. Application for retail marijuana store license

A person seeking a new retail marijuana store license must submit an application on a form the board prescribes, including the information required under 3 AAC 306.020 and

(1) a copy of an active application for a required food safety permit under 18 AAC 31.020(a) from the Department of Environmental Conservation or a municipality with authority delegated under AS 17.20.072 and 18 AAC 31.945; and

(2) in the operating plan required under 3 AAC 306.020(c), a description of the way marijuana and marijuana products at the retail marijuana store will be displayed and sold. (Eff. 2/21/2016, Register 217; am 7/27/2017, Register 223)

3 AAC 306.320. Marijuana handler permit required

A retail marijuana store shall ensure that

(1) each agent who is required or permitted to be physically present on the licensed premises at any time, each licensee, and each employee obtains a marijuana handler permit as provided in 3 AAC 306.700 before being licensed or employed at a retail marijuana store; and

(2) each licensee, employee, or agent has that person's marijuana handler permit card in that person's immediate possession, or a valid copy on file on the premises, at all times when on the licensed premises of the retail marijuana store. (Eff. 2/21/2016, Register 217; am 2/21/2019, Register 229)

3 AAC 306.325. Access restricted at retail marijuana store

(a) A person under 21 years of age may not enter a retail marijuana store.

(b) Each entry to a retail marijuana store must be posted with a sign that says "No one under 21 years of age allowed." The sign must be not less than 12 inches long and 12 inches wide, with letters at least one-half inch in height in high contrast to the background of the sign.

(c) An area of a retail marijuana store's licensed premises where marijuana or any marijuana product is stocked for sale or dispensed for sale is a restricted access area. The retail

marijuana store must post signs, require identification, and escort visitors in compliance with 3 AAC 306.710.

(d) If a retail marijuana store displays marijuana to a consumer for the purpose of smelling the marijuana before purchase, the retail marijuana store shall package the marijuana in a sample jar that is protected by a plastic, metal, or other protective mesh screen, and the jar must remain in the monitored custody of the retail marijuana store during consumer inspection. (Eff. 2/21/2016, Register 217; am 5/9/2019, Register 230)

3 AAC 306.330. Marijuana inventory tracking system

(a) A retail marijuana store shall use a marijuana inventory tracking system as provided in 3 AAC 306.730 to ensure all marijuana and marijuana product in the retail marijuana store's possession is identified and tracked from the time the retail marijuana store receives any batch of marijuana or lot of marijuana product through the sale, transfer to another licensed marijuana establishment, or disposal of the batch of marijuana or lot of marijuana product.

(b) When marijuana from a marijuana cultivation facility or marijuana product from a marijuana product manufacturing facility is delivered or transported to the licensed premises of a retail marijuana store, the retail marijuana store shall immediately enter identification information for that batch of marijuana or lot of marijuana product into the retail marijuana store's marijuana inventory tracking system. A retail marijuana store may not accept marijuana or a marijuana product that does not have a valid transport manifest generated from the marijuana inventory tracking system of the marijuana establishment that originated the delivery.

(c) A retail marijuana store shall reconcile each transaction from the retail marijuana store's point-of-sale system and current inventory to its marijuana inventory tracking system at the close of business each day.

(d) A retail marijuana store shall account for any variance in the quantity of marijuana or marijuana product the retail marijuana store received and the quantity it sold, transferred, or disposed of. (Eff. 2/21/2016, Register 217)

3 AAC 306.335. Health and safety requirements

A retail marijuana store shall comply with each applicable health and safety requirement set out in 3 AAC 306.735. (Eff. 2/21/2016, Register 217)

3 AAC 306.340. Testing required for marijuana and marijuana products

A retail marijuana store may not sell, give, distribute, deliver, or offer to sell, give, distribute, or deliver, marijuana or a marijuana product until all laboratory testing required under 3 AAC 306.645 has been completed, and the label required under 3 AAC 306.475 or 3 AAC 306.570 is affixed. (Eff. 2/21/2016, Register 217)

3 AAC 306.345. Packaging and labeling

(a) A retail marijuana store shall assure that

(1) marijuana sold on its licensed premises is packaged and labeled in compliance with 3 AAC 306.470 and 3 AAC 306.475;

(2) any marijuana product sold on its licensed premises is packaged and labeled in compliance with 3 AAC 306.565 and 3 AAC 306.570; and

(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.

(b) In addition to labeling requirements provided in (a) of this section, a retail marijuana store shall affix a label to each package of marijuana or marijuana product that

(1) identifies the retail marijuana store selling the marijuana product by name or distinctive logo and marijuana establishment license number;

(2) states the estimated amount of total THC in the labeled product; and

(3) contains each of the following statements:

(A) "Marijuana has intoxicating effects and may be habit forming and addictive.";

(B) "Marijuana impairs concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence.";

(C) "There are health risks associated with consumption of marijuana.";

(D) "For use only by adults twenty-one and older. Keep out of the reach of children.";

(E) "Marijuana should not be used by women who are pregnant or breast feeding.". (Eff. 2/21/2016, Register 217; am 11/8/2018, Register 228)

3 AAC 306.350. Identification requirement to prevent sale to person under 21

(a) A retail marijuana store shall refuse to sell marijuana or a marijuana product to a

person who does not produce a form of valid photographic identification showing that person is 21 years of age or older.

(b) A valid form of photographic identification includes

(1) an unexpired, unaltered passport;

(2) an unexpired, unaltered driver's license, instruction permit, or identification card of a state or territory of the United States, the District of Columbia, or a province or territory of Canada;

(3) an identification card issued by a federal or state agency authorized to issue a driver's license or identification card. (Eff. 2/21/2016, Register 217)

3 AAC 306.355. Limit on quantity sold

(a) A retail marijuana store may not sell to any one person per day

(1) more than one ounce of usable marijuana;

(2) more than seven grams of marijuana concentrate for inhalation; or

(3) more than 5,600 milligrams of THC in combined sales of marijuana and marijuana products.

(b) The limits set out in (a) of this section include marijuana or marijuana product sold for onsite consumption under 3 AAC 306.370. (Eff. 2/21/2016, Register 217; am 4/11/2019, Register 230; am 10/18/2020, Register 236)

3 AAC 306.360. Restriction on advertising of marijuana and marijuana products

(Eff. 2/21/2016, Register 217; repealed 10/17/2018, Register 228)

3 AAC 306.365. Required consumer notices for retail marijuana stores

(a) A retail marijuana store shall post, in a conspicuous location visible to customers, the following notices:

(1) “Consumption of marijuana in public is prohibited by law.”;

(2) “Transportation or carriage of marijuana or marijuana products on Alaska waterways, including cruise ships, or by air carrier is prohibited by federal law.”;

(3) “Transportation or shipment of marijuana or marijuana products outside the State of Alaska is prohibited by federal law.”;

(4) “Providing marijuana to persons under 21 years of age is prohibited by law.”.

(b) Notification signs required under (a) of this section must be at least 11 inches by 14

inches in size. Lettering must be at least one-half inch in height and in colors that contrast with the background. (Eff. 7/22/2017, Register 223)

3 AAC 306.370. Onsite consumption endorsement for retail marijuana stores

(a) Unless prohibited by local or state law, a freestanding licensed retail marijuana store with an approved onsite consumption endorsement is authorized to

(1) sell marijuana and marijuana products, excluding marijuana concentrates, to patrons for consumption on the licensed premises at the time of purchase only in an area designated as the marijuana consumption area and separated from the remainder of the premises, either by a secure door and having a separate ventilation system, or by being outdoors in compliance with (c)(4) below;

(2) sell for consumption on the premises

(A) marijuana bud or flower in quantities not to exceed one gram to any one person per day;

(B) edible marijuana products in quantities not to exceed 10 mg of THC to any one person per day; and

(C) food or beverages not containing marijuana or alcohol; and

(3) allow a person to remove from the licensed premises marijuana or marijuana product that has been purchased on the licensed premises for consumption under this section, provided it is packaged in accordance with 3 AAC 306.345.

(b) A licensed retail marijuana store with an approved onsite consumption endorsement may not

(1) sell marijuana concentrate for consumption in the marijuana consumption area or allow marijuana concentrate to be consumed in the marijuana consumption area;

(2) allow any licensee, employee, or agent of a licensee to consume marijuana or marijuana product, including marijuana concentrate, during the course of a work shift;

(3) allow a person to consume tobacco or tobacco products in the marijuana consumption area;

(4) allow a person to bring into or consume in the marijuana consumption area any marijuana or marijuana product that was not purchased at the licensed retail marijuana store;

(5) sell, offer to sell, or deliver marijuana or marijuana product at a price less than the price regularly charged for the marijuana or marijuana product during the same calendar week;

(6) sell, offer to sell, or deliver an unlimited amount of marijuana or marijuana product during a set period of time for a fixed price;

(7) sell, offer to sell, or deliver marijuana or marijuana product on any one day at prices less than those charged the general public on that day;

(8) encourage or permit an organized game or contest on the licensed premises that involves consuming marijuana or marijuana product or the awarding of marijuana or marijuana product as prizes; or

(9) advertise or promote in any way, either on or off the premises, a practice prohibited under this section.

(c) A marijuana consumption area shall have the following characteristics:

(1) the consumption area shall be isolated from the other areas of the retail marijuana store, separated by walls and a secure door, and shall have access only from the retail marijuana store;

(2) a smoke-free area for employees to monitor the marijuana consumption area;

(3) a ventilation system that directs air from the marijuana consumption area to the outside of the building through a filtration system sufficient to remove visible smoke, consistent with all applicable building codes and ordinances, and adequate to eliminate odor at the property line;

(4) if outdoors, be found by the board to be compatible with uses in the surrounding area through evaluation of

(A) neighboring uses;

(B) the location of air intake vents on neighboring buildings;

(C) a sight-obscuring wall or fence around the outdoor marijuana consumption area;

(D) objections of property owners, residents, and occupants within 250 linear feet or the notification distance required by the local government, whichever is greater; and

(E) any other information the board finds relevant.

(d) An applicant for an onsite consumption endorsement must file an application on a form the board prescribes, including the documents and endorsement fee set out in this section, which must include

(1) the applicant's operating plan, in a format the board prescribes, describing the retail marijuana store's plan for

(A) security, in addition to what is required for a retail marijuana store, including:

(i) doors and locks;

(ii) windows;

(iii) measures to prevent diversion; and

(iv) measures to prohibit access to persons under the age of 21;

(B) ventilation. If consumption by inhalation is to be permitted, ventilation plans must be

(i) signed and approved by a licensed mechanical engineer;

(ii) sufficient to remove visible smoke; and

(iii) consistent with all applicable building codes and ordinances;

(C) monitoring overconsumption;

(D) unconsumed marijuana, by disposal or by packaging in accordance with 3 AAC 306.345; and

(E) preventing introduction into the marijuana consumption area of marijuana or marijuana products not sold by the retail marijuana store, and marijuana or marijuana products not sold specifically for onsite consumption;

(2) the applicant's detailed diagram of the marijuana consumption area which must show the location of

(A) the licensed premises of the retail marijuana store;

(B) serving area or areas;

(C) ventilation exhaust points, if applicable;

(D) the employee monitoring area;

(E) doors, windows, or other exits; and

(F) access control points;

(3) the title, lease, or other documentation showing the applicant's sole right of possession of the proposed marijuana consumption area, if the area is not already part of the approved licensed premises for the retail marijuana store;

(4) an affidavit that notice of an outdoor marijuana consumption area has been mailed to property owners, residents, and occupants of properties within 250 linear feet of the boundaries of the property on which the onsite consumption endorsement is proposed, or the notification distance required by the local government, whichever is greater.

(e) The retail marijuana store holding an onsite consumption endorsement under this chapter shall

(1) destroy all unconsumed marijuana left abandoned or unclaimed in the marijuana consumption area in accordance with the operating plan and 3 AAC 306.740;

(2) monitor patrons in the marijuana consumption area at all times, specifically for overconsumption;

(3) display all warning signs required under 3 AAC 306.360 and 3 AAC 306.365 within the marijuana consumption area, visible to all consumers;

(4) provide written materials containing marijuana dosage and safety information for each type of marijuana or marijuana product sold for consumption in the marijuana consumption area at no cost to patrons;

(5) package and label all marijuana or marijuana product sold for consumption on the premises as required by 3 AAC 306.345; and

(6) comply with any conditions set by the local government or placed on the endorsement by the board.

(f) The holder of an onsite consumption endorsement must apply for renewal annually at the time of renewal of the underlying retail marijuana store license. (Eff. 4/11/2019, Register 230)

Article 4

Marijuana Cultivation Facilities

3 AAC 306.400. Marijuana cultivation facility license required

(a) Except as provided under AS 17.38.020, a person may not plant, propagate, cultivate, harvest, trim, dry, cure, package, or label marijuana grown at a place under that person's control or sell marijuana grown at a place under that person's control to a marijuana establishment unless the person has obtained a marijuana cultivation facility license from the board in compliance with this chapter or is an employee or agent acting for a licensed marijuana cultivation facility. The board will issue the following types of marijuana cultivation facility licenses, with the privileges and subject to the prohibitions set out in 3 AAC 306.405 and 3 AAC 306.410:

(1) a standard marijuana cultivation facility license;

(2) a limited marijuana cultivation facility license to a person operating a marijuana cultivation facility with fewer than 500 square feet under cultivation.

(b) A person seeking a standard or limited marijuana cultivation facility license as provided in (a) of this section must

(1) submit an application for the applicable marijuana cultivation facility license on a form the board prescribes, including the information set out under 3 AAC 306.020 and 3 AAC 306.420; and

(2) demonstrate to the board's satisfaction that the applicant will operate in compliance with

(A) each applicable provision of 3 AAC 306.400 - 3 AAC 306.480 and 3 AAC 306.700 - 3 AAC 306.770; and

(B) each applicable public health, fire, safety, and tax code and ordinance of the state and the local government in which the applicant's proposed licensed premises are located.

(c) A licensee of a marijuana cultivation facility, or an employee or agent of a marijuana cultivation facility, may not have an ownership interest in, or a direct or indirect financial interest in a licensed marijuana testing facility. (Eff. 2/21/2016, Register 217)

Editor's note: As of Register 228 (January 2019), the regulations attorney made a technical correction under AS 44.62.125(b)(6), to 3 AAC 306.400(b), using the spanned cross-reference "3 AAC 306.700 - 3 AAC 306.770" to reflect the range of sections grouped under Article 7 as of Register 228, and to be consistent with changes to the same spanned cross-reference in 3 AAC 306.005, effective October 17, 2018 (Register 228).

3 AAC 306.405. Standard marijuana cultivation facility: privileges and prohibited acts

(a) A licensed standard marijuana cultivation facility is authorized to

(1) propagate, cultivate, harvest, prepare, cure, package, store, and label marijuana;

(2) sell marijuana only to a licensed retail marijuana store, to another licensed marijuana cultivation facility, or to a licensed marijuana product manufacturing facility;

(3) provide samples to a licensed marijuana testing facility for testing;

(4) store inventory on the licensed premises; any stored inventory must be secured in a restricted access area and accounted for in the marijuana cultivation facility's marijuana inventory tracking system as required under 3 AAC 306.730;

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

(6) conduct in-house testing for the marijuana cultivation facility's own use;

(7) provide marijuana samples to a licensed retail marijuana store or marijuana product manufacturing facility for the purpose of negotiating a sale;

(8) begin initial operations at the time of preliminary inspection by an employee or agent of the board with

(A) 12 or fewer mature, non-flowering plants, designated and used as mother plants;

(B) any number of immature plants; and

(C) any number of seeds for cultivation on the licensed premises;

(9) Introduce a new strain after written approval by the director on a form prescribed by the board, by

(A) receiving not more than six clones or cuttings from a person 21 years of age or older, without compensation; or

(B) receiving not more than 10 seeds from a person 21 years of age or older, without compensation, for cultivation on the licensed premises.

(b) A licensed standard marijuana cultivation facility may also apply for a marijuana

product manufacturing facility license and a retail marijuana store license. A standard marijuana cultivation facility that obtains a marijuana product manufacturing facility license or a retail marijuana store license shall

(1) conduct any product manufacturing or retail marijuana store operation in a room completely separated from the marijuana cultivation facility by a secure door when co-located; and

(2) comply with each provision of this chapter that applies to any other type of marijuana establishment license that the standard marijuana cultivation facility licensee obtains.

(c) A licensed standard marijuana cultivation facility may not

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

(2) allow any person, including a licensee, employee, or agent, to consume marijuana or a marijuana product on the licensed premises or within 20 feet of the exterior of any building or outdoor cultivation facility on the licensed premises;

(3) treat or otherwise adulterate marijuana with any organic or nonorganic chemical or other compound to alter the color, appearance, weight, or odor of the marijuana;

(4) except as permitted under a marijuana product manufacturing facility license, extract marijuana concentrate, using any process described in 3 AAC 306.555, at the licensed premises;

(5) sell marijuana that is not packaged and labeled in compliance with 3 AAC 306.470 and 3 AAC 306.475;

(6) introduce marijuana or a marijuana product, including plants and seeds, onto the licensed premises from any outside source after the initial preliminary inspection, except

(A) as acquired from another licensed marijuana cultivation facility and accounted for in each marijuana cultivation facility's marijuana inventory tracking system as required under 3 AAC 306.730; or

(B) as provided under this section. (Eff. 2/21/2016, Register 217; am 10/20/2018, Register 228)

3 AAC 306.410. Limited marijuana cultivation facility: privileges and prohibited acts

A licensed limited marijuana cultivation facility

(1) has the privileges set out in 3 AAC 305.405(a) and (b), except that it must

have fewer than 500 square feet under cultivation; and

(2) is subject to each prohibition set out in 3 AAC 306.405(c). (Eff. 2/21/2016, Register 217)

3 AAC 306.420. Application for marijuana cultivation facility license

An applicant for a new standard marijuana cultivation facility license or a new limited marijuana cultivation facility license must file an application on a form the board prescribes, including

(1) the information required under 3 AAC 306.020; and

(2) the proposed marijuana cultivation facility's operating plan, including, in addition to the information required under 3 AAC 306.020(c),

(A) the size of the space intended to be under cultivation;

(B) the growing medium to be used;

(C) fertilizers, chemicals, gases, and deliver systems, including carbon dioxide, management, to be used;

(D) the irrigation and waste water systems to be used;

(E) waste disposal arrangements;

(F) odor control; and

(G) the testing procedure and protocols the marijuana cultivation facility will follow. (Eff. 2/21/2016, Register 217)

3 AAC 306.425. Marijuana handler permit required

A marijuana cultivation 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

(1) obtains a marijuana handler permit as provided in 3 AAC 306.700 before being licensed or employed at the marijuana cultivation facility's licensed premises; and

(2) has the marijuana handler permit card in the person's immediate possession, or a valid copy on file on the premises, at all times while on the marijuana cultivation facility's licensed premises. (Eff. 2/21/2016, Register 217; am 2/21/2019, Register 229)

3 AAC 306.430. Restricted access area

(a) A marijuana cultivation facility shall conduct any operation in a restricted access area in compliance with 3 AAC 306.710 and this section.

(b) A marijuana cultivation facility shall conduct any marijuana growing operation within

a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors. Where not prohibited by local government, outdoor production may take place in non-rigid greenhouses, other structures, or an expanse of open or cleared ground fully enclosed by a physical barrier. To obscure public view of the premises, outdoor production must be enclosed by a sight- obscuring wall or fence at least six feet high.

(c) A marijuana cultivation facility shall ensure that any marijuana at the marijuana cultivation facility

(1) cannot be observed by the public from outside the marijuana cultivation facility; and

(2) does not emit an odor that is detectable by the public from outside the cultivation facility except as specifically allowed by a local government approval.

(d) A marijuana cultivation facility shall have full video surveillance of the licensed premises as required under 3 AAC 306.720, including any area where marijuana is grown, processed, packaged, or stored, or where marijuana waste is destroyed. (Eff. 2/21/2016, Register 217; am 8/11/2018, Register 227)

3 AAC 306.435. Marijuana inventory tracking system

(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.

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

(c) A marijuana cultivation facility shall record in its marijuana inventory tracking

system all marijuana used to provide a sample authorized under 3 AAC 306.460 for the purpose of negotiating sales, including

(1) the amount of each sample;

(2) the retail marijuana store or marijuana product manufacturing facility that received the sample; and

(3) the disposal of any expired or outdated promotional sample returned to the marijuana cultivation facility. (Eff. 2/21/2016, Register 217; am 03/13/2020, Register 233)

3 AAC 306.440. Health and safety requirements

(a) A marijuana cultivation facility shall comply with all applicable health and safety requirements set out in 3 AAC 306.735 and the additional requirements set out in this section.

(b) A marijuana cultivation facility shall ensure that any licensee, employee, or agent who is present at the marijuana cultivation facility and in contact with any marijuana

(1) wears clean clothing appropriate for the duties that person performs;

(2) wears protective apparel, such as head, face, hand, and arm coverings, as necessary to protect marijuana from contamination; and

(3) practices good sanitation and health habits. (Eff. 2/21/2016, Register 217)

3 AAC 306.445. Standards for cultivation and preparation

(a) A marijuana cultivation facility shall use registered scales in compliance with AS 45.75.080 and 3 AAC 306.745.

(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.

(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 3/13/2020, Register 233)

3 AAC 306.450. Production of marijuana concentrate prohibited

A marijuana cultivation facility may not produce or possess marijuana concentrate that was extracted using any process described in 3 AAC 306.555 on the marijuana cultivation facility's licensed premises unless the marijuana cultivation facility also has a marijuana product manufacturing facility license. Any extraction or production of marijuana concentrate on the premises of a licensed marijuana cultivation facility must

(1) be in a separate room that

(A) is physically separated by a secure door from any cultivation area; and

(B) has a sign that clearly identifies the room as a marijuana concentrate production area, and warns unauthorized persons to stay out; and

(2) comply with all applicable provisions of 3 AAC 306.500 - 3 AAC 306.570. (Eff. 2/21/2016, Register 217)

3 AAC 306.455. Required laboratory testing

(a) A marijuana cultivation facility shall provide samples from each harvest batch package of marijuana produced at the facility to a marijuana testing facility and may not sell or transport any marijuana, except as 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 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
1	4
2	4

3	5
4	6
5	8
6	10
7	11
8	13
9	14
10	16

(2) designate an individual responsible for collecting each sample; that individual shall

(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 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 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 03/13/2020, Register 233)

3 AAC 306.460. Samples

(a) A marijuana cultivation facility may provide a free sample of marijuana to a retail marijuana store if packaged in a sample jar containing not more than three and one-half grams of marijuana and protected by a plastic or metal mesh screen to allow the retail marijuana store to smell the product before purchase.

(b) A marijuana cultivation facility may provide a free sample of marijuana to a retail marijuana store or marijuana product manufacturing facility as follows:

(1) a sample provided for the purpose of negotiating a sale may be not more than one ounce;

(2) a marijuana cultivation facility may not provide any one licensed retail marijuana store or marijuana product manufacturing facility with more than one ounce of marijuana per month free-of-charge for the purpose of negotiating a sale.

(c) A retail marijuana store that receives a marijuana sample may not sell the marijuana sample to a customer, and shall either

(1) return the marijuana sample to the marijuana cultivation facility that provided the sample; or

(2) destroy the marijuana sample after use and document the destruction in the retail marijuana store's marijuana inventory control system.

(d) A marijuana cultivation facility may provide a sample of marijuana to an employee of the facility, who is in possession of a valid marijuana handler card for the purpose of quality control only if

(1) samples provided to employees for quality control do not exceed a cumulative total of one ounce per 30-day period;

(2) each sample is registered and tracked using the marijuana inventory tracking system in accordance with 3 AAC 306.730;

(3) consumption of marijuana does not occur on the licensed premises;

(4) no sample provided under this subsection is sold or given to another licensee or consumer;

(5) each employee who receives a marijuana sample for the purpose of quality control completes a quality control form approved by the board for each sample;

(6) the licensee maintains copies of completed forms required under (5) of this subsection in accordance with 3 AAC 306.755; and

(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. (Eff. 2/21/2016, Register 217; am 5/25/2018, Register 226; am 5/9/2019, Register 230)

3 AAC 306.465. Random sampling

(a) The board will or the director shall from time to time require a standard or limited marijuana cultivation facility to provide samples of 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)

3 AAC 306.470. Packaging of marijuana

(a) A marijuana cultivation facility shall package its marijuana bud and flower for sale

(1) to a retail marijuana store, either

(A) in a package not exceeding one ounce for resale to consumers without additional handling by the retail marijuana store except to add the retail marijuana store's own

(i) identifying name or logo; and

(ii) license number; or

(B) in a wholesale package not exceeding 10 pounds for repackaging by the retail marijuana store; or

(2) to a marijuana product manufacturing facility in a wholesale package

(A) not exceeding 10 pounds; and

(B) consisting of a single strain or a mixture of strains as identified on the label.

(b) When a marijuana cultivation facility packages marijuana for a retail marijuana store to sell to a consumer without repackaging, the packaging may not have any printed images, including cartoon characters, that specifically target persons under 21 years of age. In addition, the packaging must protect the product from contamination and may not impart any toxic or damaging substance to the marijuana.

(c) Each package prepared in compliance with this section must be identified by a tracking label generated for tracking by the marijuana cultivation facility's marijuana inventory tracking system.

(d) A marijuana cultivation facility shall prepare marijuana for transport or transfer to another marijuana establishment by

(1) placing marijuana packaged in compliance with (a) - (c) of this section within a sealed, tamper-evident shipping container;

(2) affixing a label in compliance with 3 AAC 306.475 to the shipping container; and

(3) generating a transport manifest from the marijuana cultivation facility's marijuana inventory tracking system; the transport manifest must remain with the marijuana at all times while being transported, and a copy must be given to the licensed marijuana establishment that receives the shipment. (Eff. 2/21/2016, Register 217; am 3/13/2020, Register 233)

Editor's note: As of Register 233 (April 2020), the regulations attorney made a technical revision under AS 44.62.125(b)(6), to 3 AAC 306.470(a)

3 AAC 306.475. Labeling of marijuana

(a) When a marijuana cultivation facility packages marijuana for a retail marijuana store to sell to a consumer without re-packaging, the marijuana cultivation facility shall affix a label to each package of marijuana or marijuana product that contains each of the following statements:

(1) "Marijuana has intoxicating effects and may be habit forming and addictive.";

(2) "Marijuana impairs concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence.";

(3) "There are health risks associated with consumption of marijuana.";

(4) "For use only by adults twenty-one and older. Keep out of the reach of children.";

(5) "Marijuana should not be used by women who are pregnant or breast feeding.".

(b) With each harvest batch of marijuana sold, a marijuana cultivation facility shall disclose in writing

(1) each soil amendment, fertilizer, and other crop production aid applied to the growing medium or marijuana plant included in the batch, including any pesticide, herbicide, or fungicide that was used; and

(2) the name of the licensed marijuana testing facility that performed any required laboratory test and the results of each required laboratory test.

(c) A marijuana cultivation facility may not label marijuana as organic.

(d) To each package of marijuana sold to another marijuana establishment, a marijuana cultivation facility shall affix a label setting out.

(1) the name and license number of the marijuana cultivation facility where the marijuana was grown;

(2) the inventory tracking number assigned to the marijuana in the package;

(3) the net weight of the marijuana in the package,

(A) not including weight of the shipping container; and

(B) using a standard of measure compatible with the marijuana cultivation facility's marijuana inventory tracking system; and

(4) a complete list of all pesticides, fungicides, and herbicides used in cultivation of the marijuana.

(e) If a marijuana cultivation facility transports wholesale marijuana to another marijuana

establishment for sale at retail or for use in manufacturing a marijuana product, a label must be affixed to the shipping container showing that a licensed marijuana testing facility has tested each harvest batch in the shipment as provided in 3 AAC 306.645. The label must report the test results, including

(1) a cannabinoid potency profile expressed as a range of percentages that extends from the lowest percentage to highest percentage of concentration for each cannabinoid listed from every test conducted on that strain of marijuana from the same marijuana cultivation facility within the last three months;

(2) a statement listing the results of microbial testing required under 3 AAC 306.645(b)(2);

(3) a statement listing the results of residual solvent testing required under 3 AAC 306.645(b)(3), if applicable; and

(4) a statement listing any contaminants for which the product was tested in addition to contaminants for which 3 AAC 306.645(b) requires testing; any additional tested contaminants include

(A) molds, mildew, and filth;

(B) herbicides, pesticides, and fungicides; and

(C) harmful chemicals.

(f) If a marijuana cultivation facility ships wholesale marijuana from a harvest batch that has not been tested for each contaminant listed in (e)(4) of this section, the label for that batch must include a statement identifying each contaminant listed in (e)(4) of this section for which that harvest batch has not been tested. (Eff. 2/21/2016, Register 217; am 11/8/2018, Register 228)

3 AAC 306.480. Marijuana tax to be paid

A marijuana cultivation facility, including a standard marijuana cultivation facility and a limited marijuana cultivation facility, shall submit monthly reports to the Department of Revenue and pay the excise tax required under AS 43.61.010 and 43.61.020 on all marijuana sold or provided as a sample to a marijuana establishment. (Eff. 2/21/2016, Register 217)

Article 5

Marijuana Product Manufacturing Facilities

3 AAC 306.500. Marijuana product manufacturing facility license required

(a) A person may not extract marijuana concentrate for sale or formulate or manufacture any marijuana product for sale unless that person has obtained a marijuana product manufacturing facility license from the board in compliance with this chapter, or is an employee or agent acting for a licensed marijuana product manufacturing facility. The board will issue

(1) a standard marijuana product manufacturing facility license; and

(2) a marijuana concentrate manufacturing facility license.

(b) A person seeking any type of marijuana product manufacturing facility license must

(1) submit an application for a marijuana product manufacturing facility license on a form the board prescribes, including the information set out under 3 AAC 306.020 and 3 AAC 306.520; and

(2) demonstrate to the board's satisfaction that the applicant will operate in compliance with

(A) each applicable provision of 3 AAC 306.500 - 3 AAC 306.570 and 3 AAC 306.700 - 3 AAC 306.770; and

(B) each applicable public health, fire, safety, and tax code and ordinance of the state and the local government in which the applicant's proposed licensed premises are located.

(c) A licensee of a marijuana product manufacturing facility, or an employee or agent of a marijuana product manufacturing facility, may not have an ownership interest in or a direct or indirect financial interest in a licensed marijuana testing facility. (Eff. 2/21/2016, Register 217)

Editor's note: As of Register 228 (January 2019), the regulations attorney made a technical correction under AS 44.62.125(b)(6), to 3 AAC 306.500(b), using the spanned cross-reference "3 AAC 306.700 - 3 AAC 306.770" to reflect the range of sections grouped under Article 7 as of Register 228, and to be consistent with changes to the

same spanned cross-reference in 3 AAC 306.005, effective October 17, 2018 (Register 228).

3 AAC 306.505. Marijuana product manufacturing facility privileges

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;

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

3 AAC 306.510. Acts prohibited at marijuana product manufacturing facility

(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.

(b) A licensed marijuana product manufacturing facility may not accept any marijuana from a marijuana cultivation facility or another marijuana product manufacturing facility unless

(1) all marijuana in the shipment is properly identified with a label generated in the marijuana inventory tracking system of the facility that provided the marijuana; and

(2) a valid transport manifest showing the source and destination of the marijuana is attached to the shipment.

(c) In this section, "closely resemble" or "look like" means the product or its packaging has a shape, color, markings, or decorative patterns that are familiar to the public from a widely distributed branded food product, so that the marijuana product could reasonably be mistaken for that branded product, especially by children. (Eff. 2/21/2016, Register 217)

3 AAC 306.515. Marijuana concentrate manufacturing facility license

A licensed 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. (Eff. 2/21/2016, Register 217)

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 306.020 and

(1) a copy of an active application for a required food safety permit under 18 AAC 31.020 from the Department of Environmental Conservation or a municipality with authority delegated under AS 17.20.072 and 18 AAC 31.945;

(2) a diagram of the proposed licensed premises required in 3 AAC 306.020(b), identifying the area where

(A) in-house testing, if any, will occur; and

(B) marijuana and any marijuana product, including marijuana concentrate, will be stored;

(3) in the applicant's operating plan required under 3 AAC 306.020(c), a description of

(A) the equipment and solvents, gases, chemicals, and other compounds used to create concentrates and the processes to be used;

(B) each marijuana product the applicant intends to process at this location; the product description must include the color, shape, texture, ingredients and standard production procedure to be used and the additional information required for product approval in 3 AAC 306.525;

(C) the packaging to be used for each type of product;

(D) sample labels showing how the labeling information required in 3 AAC 306.570 will be set out; and

(E) the applicant's plan for disposal of waste. (Eff. 2/21/2016, Register 217; am 7/27/2017, Register 223)

Editor's note: The form for an application for a marijuana product manufacturing facility license or a marijuana concentrate manufacturing facility license is available online as provided in the editor's note under 3 AAC 306.020.

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 it will manufacture for sale or transfer to another licensed marijuana establishment. The board will not approve a 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

(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 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 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)

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

(1) obtains a marijuana handler permit as provided in 3 AAC 306.700 before being licensed or employed at the marijuana product manufacturing facility's licensed premises; and

(2) has the marijuana handler permit card in the person's immediate possession, or a valid copy on file on the premises, at all times while on the marijuana product manufacturing facility's licensed premises.

(b) A licensee, employee, or agent of a marijuana product manufacturing facility who handles marijuana at the facility shall obtain a food worker card in compliance with 18 AAC 31.330 and keep that card in that person's possession at all times while on the licensed premises of the marijuana product manufacturing facility. (Eff. 2/21/2016, Register 217; am 2/21/2019, Register 229)

3 AAC 306.535. Restricted access and storage areas

(a) A marijuana product manufacturing facility shall conduct any extraction or product

manufacturing operation in a restricted access area in compliance with 3 AAC 306.710.

(b) A marijuana product manufacturing facility shall have full video surveillance of the licensed premises as provided in 3 AAC 306.720, including each area where

(1) marijuana concentrate is produced;

(2) any operation involved in manufacturing any product containing marijuana occurs;

(3) marijuana or a marijuana product is stored or stockpiled; or

(4) marijuana waste is destroyed.

(c) Any area where marijuana or a marijuana product is stored must be moisture- and temperature-controlled and protected from pests and vermin. (Eff. 2/21/2016, Register 217)

3 AAC 306.540. Marijuana inventory tracking system

(a) A marijuana product manufacturing facility shall use a marijuana inventory tracking system as provided in 3 AAC 306.730 to ensure that the marijuana product manufacturing facility identifies and tracks any marijuana or marijuana product from the time the marijuana or marijuana product is received, through

(1) use of the marijuana or marijuana product in manufacturing any other marijuana product;

(2) sale or transfer of the marijuana or marijuana product originally received, or any marijuana product manufactured at that marijuana product manufacturing facility to another licensed marijuana establishment; and

(3) disposal of any expired or outdated marijuana or marijuana product that is not sold or transferred to another licensed marijuana establishment.

(b) When marijuana from a marijuana cultivation facility or a marijuana product from another marijuana product manufacturing facility is delivered or transported to the licensed premises of a marijuana product manufacturing facility, the marijuana product manufacturing facility shall immediately enter tracking information for that marijuana or marijuana product into the marijuana inventory tracking system. A marijuana product manufacturing facility may not accept any marijuana or marijuana product that does not have a valid transport manifest generated from the marijuana inventory tracking system of the licensed marijuana establishment that supplies the marijuana or marijuana product.

(c) A marijuana product manufacturing facility shall track any received marijuana or

marijuana product to its use in a marijuana product, and shall reconcile each transaction to the marijuana product manufacturing facility's marijuana inventory tracking system at the close of business each day.

(d) A marijuana product manufacturing facility shall account for any variance in the quantity of marijuana or marijuana product the facility received, and the quantity the facility sold, transferred, or disposed of. (Eff. 2/21/2016, Register 217)

3 AAC 306.545. Health and safety standards

(a) A marijuana product manufacturing facility shall comply with the health and safety standards set out in 3 AAC 306.735, 18 AAC 31 (Alaska Food Code), if applicable, and any local kitchen-related health and safety standards for retail food establishments.

(b) In addition to inspection by the director or an employee or agent of the board, a marijuana product manufacturing facility is subject to inspection by local safety officials, including a local fire department, building inspector, or code enforcement officer. (Eff. 2/21/2016, Register 217)

3 AAC 306.550. Required laboratory testing

(a) A marijuana product manufacturing facility shall provide a sample of each marijuana product manufactured at the facility to a licensed marijuana testing facility, and may not sell or transport a marijuana product until all laboratory testing required under 3 AAC 306.645 has been completed.

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

(1) collect a random sample for testing by selecting a product from each production lot in an amount required by the marijuana testing facility;

(2) designate an individual responsible for collecting each sample; that individual shall

(A) prepare a signed statement showing that each sample has been randomly selected for testing;

(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 sample to the marijuana testing facility in compliance with 3 AAC 306.750.

(c) After collecting and transporting a sample for testing, a marijuana product

manufacturing facility shall segregate the entire production lot 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 product manufacturing facility that provided the sample shall maintain the production lot in a secure, cool, and dry location to prevent the marijuana product from becoming contaminated or losing its efficacy. The marijuana product manufacturing facility may not sell or transport any marijuana product from the segregated lot until the marijuana testing facility has completed its testing and analysis and provided those results, in writing, to the marijuana product manufacturing facility that provided the sample. The marijuana product manufacturing facility shall maintain the testing results as part of its business records. (Eff. 2/21/2016, Register 217)

3 AAC 306.555. Production of marijuana concentrate

(a) Before producing marijuana concentrate for sale, a marijuana product manufacturing facility shall develop standard operating procedures, good manufacturing practices, a safety plan, and a training plan for each individual employed in an extraction process.

(b) A marijuana product manufacturing facility may create marijuana concentrates only as follows:

(1) water-based marijuana concentrate may be produced by extracting cannabinoids from marijuana by using only water, ice, or dry ice;

(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;

(3) solvent-based marijuana concentrate may be produced using the hydrocarbons N-butane, isobutane, propane, or heptane or other solvents or gases the board approves that exhibit low to minimal potential human health- related toxicity; approved solvents must be of at least 99 percent purity and must be used

(A) in a professional grade closed-loop extraction system designed to recover the solvents;

(B) in an environment with proper ventilation; and

(C) with control of all sources of ignition if a flammable atmosphere is or

may be present.

(c) A marijuana product manufacturing facility using a professional grade closed-loop gas extraction system shall ensure that

(1) each vessel is used in compliance with the manufacturer's stated pressure ratings;

(2) any carbon dioxide used is of at least 99 percent purity;

(3) a person using a solvent or gas to extract marijuana concentrate in the closed-loop system is fully trained on how to use the system, has direct access to applicable material safety data sheets, and handles and stores the solvent and gas safely;

(4) a licensed engineer has certified that the professional grade closed-loop system was commercially manufactured, is safe for its intended use, and is built to codes of recognized and generally accepted engineering practices; and

(5) any professional grade closed-loop system, and other equipment and facilities used in the extraction process are approved for their use by the local fire code official and meet any applicable fire, safety, and building code requirements.

(d) A marijuana product manufacturing facility may use heat, screens, presses, steam distillation, ice water, and other methods without employing solvents or gases to create

(1) kief;

(2) hashish;

(3) bubble hash;

(4) infused dairy butter, oils, or fats derived from natural sources; or

(5) other extracts.

(e) A marijuana product manufacturing facility may use food-grade glycerin, ethanol, and propylene glycol solvents to create extracts. All ethanol must be removed from the extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere. (Eff. 2/21/2016, Register 217)

3 AAC 306.557. Quality control sampling

A marijuana product manufacturing facility may provide a sample of marijuana concentrate or other marijuana product to an employee of the facility, who is in possession of a valid marijuana handler card for the purpose of quality control only if

(1) samples provided to employees for quality control do not exceed a cumulative

total set out in 3 AAC 306.355 in a 30-day period;

(2) each sample is registered and tracked using the marijuana inventory tracking system in accordance with 3 AAC 306.730;

(3) consumption of marijuana does not occur on the licensed premises;

(4) no sample provided under this section is sold or given to another licensee or consumer;

(5) each employee who receives a marijuana sample for the purpose of quality control completes a quality control form approved by the board for each sample;

(6) the licensee maintains copies of completed forms required under (5) of this subsection in accordance with 3 AAC 306.755; and

(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. (Eff. 5/25/2018, Register 226)

3 AAC 306.560. Potency limits per serving and transaction for edible marijuana products

A marijuana product manufacturing facility may not prepare a marijuana product with potency levels exceeding the following, as tested in compliance with 3 AAC 306.645:

(1) for a single serving of a marijuana product, five milligrams of active tetrahydrocannabinol (THC) or Delta 9;

(2) in a single packaged unit of a marijuana product to be eaten or swallowed, not more than 10 servings or 50 milligrams of active THC or Delta 9; the THC content must be homogenous, or evenly distributed throughout the marijuana-infused product. (Eff. 2/21/2016, Register 217)

3 AAC 306.565. Packaging of marijuana products

(a) A marijuana product manufacturing facility shall observe the potency limits set out in 3 AAC 306.560 in packaging each product for resale by a retail marijuana store.

(b) A container or packaging for any edible marijuana product produced by a marijuana product manufacturing facility may not have any printed images, including cartoon characters, that specifically target individuals under 21 years of age. In addition, the packaging must

(1) protect the product from contamination and may not impart any toxic or damaging substance to the product; and

(2) if the marijuana product contains multiple servings, be designed so that the marijuana product itself has markings or demarcations clearly delineating each serving of the product; for liquid marijuana products with multiple servings, the packaging must indicate the number and size of individual servings.

(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 pounds to another licensed marijuana product manufacturing facility or a licensed retail marijuana store.

(d) Each packaged marijuana product must be identified by a tracking label generated by the marijuana product manufacturing facility's marijuana inventory tracking system.

(e) A licensed marijuana product manufacturing facility shall prepare marijuana products for transfer to another marijuana establishment by

(1) placing marijuana products within a sealed, tamper-evident shipping container;

(2) affixing a label that complies with 3 AAC 306.570(d) to the shipping container; and

(3) generating a transport manifest from the marijuana product manufacturing facility's marijuana inventory tracking system; the transport manifest must remain with the marijuana products at all times while being transported, and a copy must be given to the licensed marijuana establishment that receives the shipment. (Eff. 2/21/2016, Register 217; am 2/21/2019, Register 229; am 03/13/2020, Register 233)

3 AAC 306.570. Labeling of marijuana products

(a) With each production lot of marijuana product sold, a marijuana product manufacturing facility shall disclose in writing the name of the licensed marijuana testing facility that performed any required test and the results of each required test.

(b) A marijuana product may not be labeled as organic.

(c) To each package of marijuana product sold to a retail marijuana store for resale to a consumer, a marijuana product manufacturing facility shall affix a label setting out

(1) the name and license number of the marijuana product manufacturing facility where the marijuana product was prepared;

(2) the production lot number assigned to the product in the package;

(3) the net weight of the product in the package,

(A) not including weight of packaging; and

(B) using a standard of measure compatible with the marijuana product manufacturing facility's marijuana inventory tracking system; and

(4) each of the following statements:

(A) "Marijuana has intoxicating effects and may be habit forming and addictive";

(B) "Marijuana impairs concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence";

(C) "There are health risks associated with consumption of marijuana";

(D) "For use only by adults twenty-one and older. Keep out of the reach of children.";

(E) "Marijuana should not be used by women who are pregnant or breast feeding.".

(d) A marijuana product manufacturing facility transporting a marijuana product to a retail marijuana store shall affix a label to the shipping container showing that a licensed marijuana testing facility has tested each lot of marijuana product in the shipment and giving the test results, including

(1) a cannabinoid potency profile expressed as a range of percentages that extends from the lowest percentage to highest percentage of concentration for each cannabinoid listed from every test conducted on that production lot from the same marijuana product manufacturing facility within the last three months;

(2) a statement listing the results of microbial testing required under 3 AAC 306.645(b)(2);

(3) a statement listing the results of residual solvent testing required under 3 AAC 306.645(b)(3), if applicable; and

(4) a statement listing any contaminants for which the product was tested in addition to contaminants for which 3 AAC 306.645(b) requires testing; any additional tested contaminants include

(A) molds, mildew, and filth;

(B) herbicides, pesticides, and fungicides; and

(C) harmful chemicals.

(e) If a marijuana product manufacturing facility ships wholesale marijuana product from a production lot of marijuana product that has not been tested for each contaminant listed in (d)(4) of this section, the label for that lot must include a statement identifying each contaminant listed in (d)(4) of this section for which that lot has not been tested. (Eff. 2/21/2016, Register 217)

Article 6

Marijuana Testing Facilities

3 AAC 306.600. Applicability

(a) The provisions of 3 AAC 306.600 - 3 AAC 306.675 apply to a person offering a service testing, analyzing, or certifying potency, moisture content, pesticide or solvent residue, mold, mildew, bacteria, or other contaminants in marijuana or a marijuana product to another person including a marijuana establishment or a member of the public, whether for compensation or not, as a independent or third-party testing facility.

(b) The provisions of 3 AAC 306.600 - 3 AAC 306.675 do not apply to a licensed marijuana establishment that controls marijuana testing equipment used solely for its own in-house testing of its own cultivated crop, of products produced or manufactured at its own facility, or of retail products placed or offered for sale in its retail marijuana store. (Eff. 2/21/2016, Register 217)

3 AAC 306.605. Marijuana testing facility license required

(a) A person may not offer or provide a marijuana testing service or test results unless the person has obtained a marijuana testing facility license from the board in compliance with this chapter, or is an employee or agent acting for a licensed marijuana testing facility.

(b) A person seeking a marijuana testing facility license must

(1) submit an application for a marijuana testing facility license on a form the board prescribes, including the information set out under 3 AAC 306.020 and 3 AAC 306.615; and

(2) demonstrate to the board's satisfaction that the applicant

(A) will operate in compliance with each applicable provision of 3 AAC 306.600 - 3 AAC 306.675 and 3 AAC 306.700 - 3 AAC 06.770;

(B) will operate in compliance with each applicable public health, fire, safety, and tax code and ordinance of the state and the local government in which the applicant's proposed licensed premises are located;

(C) does not hold a marijuana establishment license in this state other than a marijuana testing facility license, or have a financial interest in common with a person

who is a licensee of a marijuana establishment in this state other than a marijuana testing facility license; and

(D) meets the board's standards for approval as set out in 3 AAC 306.620 - 3 AAC 306.625.

(c) A licensee of a marijuana testing facility, or an employee or agent of a licensed marijuana testing facility, may not have an ownership interest in or a direct or indirect financial interest in another licensed marijuana establishment. (Eff. 2/21/2016, Register 217)

Editor's note: As of Register 228 (January 2019), the regulations attorney made a technical correction under AS 44.62.125(b)(6), to 3 AAC 306.605(b), using the spanned cross-reference "3 AAC 306.700 - 3 AAC 306.770" to reflect the range of sections grouped under Article 7 as of Register 228, and to be consistent with changes to the same spanned cross-reference in 3 AAC 306.005, effective October 17, 2018 (Register 228).

3 AAC 306.610. Marijuana testing facilities: privileges and prohibitions

(a) A licensed marijuana testing facility may have any amount of marijuana and marijuana products on its premises at any given time if the marijuana testing facility's marijuana inventory tracking system and other records document that all marijuana and marijuana products are on the premises only for the testing purposes described in 3 AAC 306.600 - 3 AAC 06.675.

(b) A licensed marijuana testing facility may not

(1) have a licensee, employee, or agent who holds a type of marijuana establishment license other than a marijuana testing facility license issued under this chapter;

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

(3) allow a person to consume marijuana or a marijuana product on its licensed premises. (Eff. 2/21/2016, Register 217)

3 AAC 306.615. Application for marijuana testing facility license

An applicant for a new marijuana testing facility license must file an application on a form the board prescribes, including

(1) the information required under 3 AAC 306.020; and

(2) the proposed marijuana testing facility's operating plan, including, in addition to the information required under 3 AAC 306.020(c),

(A) each test the marijuana testing facility will offer;

(B) the marijuana testing facility's standard operating procedure for each test the marijuana testing facility will offer; and

(C) the acceptable range of results for each test the marijuana testing facility will offer. (Eff. 2/21/2016, Register 217)

3 AAC 306.620. Approval of testing facility

(a) A person seeking a marijuana testing facility license must first obtain the approval of the board by showing competence to perform each test the licensee will offer as an independent third-party testing facility, including tests to identify

(1) THC, THCA, CBD, CBDA and CBN potency;

(2) Harmful microbials including Escherichia coli (E. Coli) or salmonella;

(3) residual solvents;

(4) poisons or toxins;

(5) harmful chemicals;

(6) dangerous molds, mildew, or filth;

(7) pesticides.

(b) In evaluating whether a person has shown competence in testing under this section, the board or the board's contractor may

(1) conduct an on-site inspection of the applicant's premises;

(2) require the applicant to demonstrate proficiency in testing; and

(3) examine compliance with any applicable requirement of 3 AAC 306.630 - 3 AAC 306.675, and 3 AAC 306.700 - 3 AAC 306.770, including

(A) qualifications of personnel;

(B) the standard operating procedure for each testing methodology the marijuana testing facility will use;

(C) proficiency testing results;

(D) quality control and quality assurance;

(E) security;

(F) chain of custody;

(G) specimen retention;

(H) space;

(I) records; and

(J) reporting of results.

(c) The board will approve a marijuana testing facility license if, after the board or the board's contractor has examined the qualifications and procedures of the marijuana testing facility license applicant and documented the conclusions of the examination in a written report, the board finds the qualifications and procedures generally in compliance with good laboratory practices and that the application meets the requirements of this section. Nothing in AS 17.38 or this chapter constitutes a board guarantee that a licensed marijuana testing facility can or will protect the public from all potential hazards of marijuana including microbials, poisons or toxins, residual solvents, pesticides, or other contaminants. (Eff. 2/21/2016, Register 217; am 3/25/2020, Register 233)

Editor's note: As of Register 228 (January 2019), the regulations attorney made a technical correction under AS 44.62.125(b)(6), to 3 AAC 306.620(b), using the spanned cross-reference "3 AAC 306.700 - 3 AAC 306.770" to reflect the range of sections grouped under Article 7 as of Register 228, and to be consistent with changes to the same spanned cross-reference in 3 AAC 306.005, effective October 17, 2018 (Register 228).

3 AAC 306.622. Marijuana handler permit required

A marijuana testing 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

(1) obtains a marijuana handler permit as provided in 3 AAC 306.700 before being licensed or employed at the marijuana testing facility's licensed premises; and

(2) has the marijuana handler permit card in the person's immediate possession, or a valid copy on file on the premises, at all times while on the marijuana testing facility's licensed premises. (Eff. 2/21/2019, Register 229)

3 AAC 306.625. Proficiency testing program

(a) When an accredited proficiency testing program becomes available in the state, the board may require an applicant for a marijuana testing facility license to participate successfully in a proficiency testing program not earlier than 12 months before receiving a license. The proficiency testing program must require an applicant for a marijuana testing facility license or a participating licensed marijuana testing facility to analyze test samples using the same procedures with the same number of replicate analyses, standards, testing analysts, and equipment that will be used for product testing. Successful participation is the positive

identification of 80 percent of the target analytes that the marijuana testing facility reports, and must include quantitative results when applicable. Any false positive results reported constitute an unsatisfactory score for the proficiency test.

(b) Before renewing the license of a marijuana testing facility, the board may require the facility to participate in a proficiency testing program with documentation of continued performance satisfactory to the board. The license of a marijuana testing facility may be limited, suspended, or revoked if the facility fails to participate and receive a passing score in a proficiency testing program.

(c) The scientific director employed under 3 AAC 306.630 and each testing analyst of an applicant for a marijuana testing facility license and a licensed marijuana testing facility that participated in a proficiency test shall sign a corresponding attestation statement. The scientific director shall review and evaluate each proficiency test result.

(d) An applicant for a marijuana testing facility license, and a licensed marijuana testing facility participating in the proficiency testing program, shall take and document remedial action when the applicant or the facility meets the standards of (a) of this section, but scores less than 100 percent in a proficiency test. To take and document remedial action, the marijuana testing facility's scientific director shall, at a minimum, review all samples tested and results reported after the date of the marijuana testing facility's last successful proficiency test. (Eff. 2/21/2016, Register 217)

3 AAC 306.630. Scientific director

(a) A marijuana testing facility shall employ a scientific director who must be responsible for

(1) overseeing and directing the scientific methods of the laboratory within the marijuana testing facility;

(2) ensuring that the laboratory achieves and maintains quality standards of practice; and

(3) supervising all staff of the laboratory.

(b) The scientific director of a marijuana testing facility must have

(1) a doctorate degree in chemical or biological sciences from an accredited college or university and have at least two years of post- degree laboratory experience;

(2) a master's degree in chemical or biological sciences from an accredited college

or university and have at least four years of post- degree laboratory experience; and

(3) a bachelor's degree in chemical or biological sciences from an accredited college or university and have at least six years of post- degree laboratory experience. (Eff. 2/21/2016, Register 217)

3 AAC 306.635. Testing methodologies

(a) An applicant for a marijuana testing facility license and a licensed marijuana testing facility shall

(1) use as guidelines or references for testing methodologies

(A) the American Herbal Pharmacopoeia's *Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control, Revision 2014*, adopted by reference; and

(B) the United Nations Office on Drugs and Crime's *Recommended Methods for the Identification and Analysis of Cannabis and Cannabis Products: Manual for Use by National Drug Analysis Laboratories*, dated 2009 and adopted by reference;

(2) notify the board of any alternative scientifically valid testing methodology the marijuana testing facility proposes to use for any laboratory test it conducts; the board may require third-party validation of any monograph, peer-reviewed scientific journal article, or analytical method the marijuana testing facility proposes to follow to ensure the methodology produces comparable and accurate results; and

(3) comply with the Alcohol and Marijuana Control Office's *Cannabis Testing Laboratory Compliance Document*, dated September 30, 2019 and adopted by reference; a marijuana testing facility whose license was first issued before March 25, 2020 shall comply with this paragraph not later than September 25, 2020.

(b) An applicant for a marijuana testing facility license and the holder of a marijuana testing facility license shall observe good laboratory practices.

(c) The board or the board's contractor may inspect the practices, procedures, and programs adopted, followed, and maintained by the applicant or the licensed marijuana testing facility and may examine all records of the applicant or the licensed marijuana testing facility that are related to the inspection. The board may require an applicant or a licensed marijuana testing facility to have an independent third party inspect and monitor laboratory operations to assess testing competency and the marijuana testing facility's compliance with its quality

program. The board may require random validation of a marijuana testing facility's execution of each testing methodology the facility uses. (Eff. 2/21/2016, Register 217; am 3/25/2020, Register 233)

Editor's note: Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control, Revision 2014, published by the American Herbal Pharmacopoeia, adopted by reference in 3 AAC 306.635, may be obtained from the American Herbal Pharmacopoeia, P.O. Box 66809, Scotts Valley, California 95067, or at the Internet address http://www.herbal-ahp.org/ The United Nations Office on Drugs and Crime's Recommended Methods for the Identification and Analysis of Cannabis and Cannabis Products: Manual for Use by National Drug Analysis Laboratories, adopted by reference in 3 AAC 306.635, is available at the Internet address https://www.unodc.org/documents/scientific/ST-NAR-40-Ebook.pdf.

3 AAC 306.640. Standard operating procedure manual

(a) An applicant for a marijuana testing facility license and a licensed marijuana testing facility shall have a written manual of standard operating procedures, with detailed instructions explaining how to perform each testing method the applicant or marijuana testing facility uses and minimum standards for each test. The written manual of standard operating procedures must be available to each employee of the marijuana testing facility at all times. The written manual of standard operating procedures must cover at least

(1) sample preparation for each matrix that will be tested;

(2) reagent, solution, and reference standard preparation;

(3) instrument setup, if applicable;

(4) standardization of volumetric reagent solutions, if applicable;

(5) data acquisition;

(6) calculation of results;

(7) identification criteria;

(8) quality control frequency;

(9) quality control acceptance criteria; and

(10) corrective action protocol.

(b) The scientific director of a marijuana testing facility shall approve, sign, and date each standard operating procedure, and each revision to any standard operating procedure. Each revision to any standard operating procedure shall be provided to the board not later than 10 days after approval by the scientific director for review by the board or the board’s contractor. The

revised standard operating procedure may not be implemented until approved by the board or the board's contractor. (Eff. 2/21/2016, Register 217; am 03/25/2020, Register 233)

3 AAC 306.645. Laboratory testing of marijuana and marijuana products

(a) A marijuana testing facility shall use the general body of required laboratory tests as set out in this section for marijuana plant material, an extract or concentrate of marijuana, and a marijuana product. Required tests may include potency analysis, moisture content, foreign matter inspection, microbial screening, pesticide, other chemical residue, and metals screening, and residual solvents levels. A marijuana testing facility shall establish a schedule of fees required for each test it offers, and shall perform tests using methods in compliance with guidelines prescribed by the board.

(b) The tests required for each marijuana type or marijuana product, are as follows:

(1) potency testing is required on marijuana bud and flower, marijuana concentrate, and a marijuana product, as follows:

(A) the required cannabinoid potency test must at least determine the concentration of THC, THCA, CBD, CBDA and CBN cannabinoids; a marijuana testing facility may test and report results for any additional cannabinoid if the test is conducted in compliance with a validated method;

(B) a marijuana testing facility shall report potency test results as follows:

(i) for a potency test on marijuana and marijuana concentrate, the marijuana testing facility shall list for each required cannabinoid a single percentage concentration, based on dry weight, that represents an average of all samples within the test batch; additionally, total THC and total CBD shall be reported;

(ii) for a potency test on a marijuana product, whether conducted on each individual production lot or using process validation, the marijuana testing facility shall list for each cannabinoid the total number of milligrams contained within a single retail marijuana product unit for sale;

(iii) testing whether the THC content is homogenous, the marijuana testing facility shall report the THC content of each single serving in a multi-unit package; the reported content must be within 20 percent of the manufacturer's target; for example, in a 25 milligrams total THC package with

five servings, each serving must contain between four and six milligrams of THC;

(C) the marijuana testing facility shall determine an edible marijuana product to have failed potency testing if

(i) an individually packaged edible retail marijuana product contained within a test lot is determined to have more than 60 milligrams of THC within it; or

(ii) the THC content of an edible marijuana product is not homogenous;

(2) microbial testing for the listed substances on the listed marijuana and marijuana products is required as follows:

Substance	**Acceptable Limits Per Gram**	**Product to be Tested**
--*Shiga*-toxin producing *Escherichia coli* (STEC)-bacteria	Less than 1 colony forming unit (CFU/g)	Marijuana; retail marijuana products; water-and food-based concentrates
Salmonella species-bacteria	Less than 1 colony forming unit (CFU/g)	
Substance	**Acceptable Limits Per Gram**	**Product to be Tested**
Aspergillus fumigatus, *Aspergillus flavus*, *Aspergillus niger*-fungus	Less than 1 colony forming unit (CFU/g)	Marijuana; retail marijuana products; water-and food-based concentrates

(3) testing for the listed residual solvents and metals on the listed marijuana products is required as follows:

Substance	**Acceptable Limits Per Gram**	**Product to be Tested**

butanes	Less than 800 parts per million (PPM)	Solvent-based concentrates
heptanes	Less than 500 parts per million (PPM)	
benzene	Less than 1 part per million (PPM)	
toluene	Less than 1 part per million (PPM)	
hexane	Less than 10 parts per million (PPM)	
Total xylenes (meta-eylenes, para-xylenes, or ortho-xylenes)	Less than 1 part per million (PPM)	

(Eff. 2/21/2016, Register 217; am 7/5/2017, Register 223; am 11/8/2018, Register 228)

3 AAC 306.650. Chain of custody

A marijuana testing facility shall establish an adequate chain of custody and sample requirement instructions that include

(1) issuing instructions for the minimum sample requirements and storage requirements;

(2) documenting the condition of the external package and integrity seals utilized to prevent contamination of or tampering with the sample;

(3) documenting the condition and amount of sample provided at the time the sample is received at the marijuana testing facility;

(4) documenting each person handling the original samples, aliquots, and extracts;

(5) documenting any transfer of samples, aliquots, and extracts to another marijuana testing facility for additional testing or at the request of the marijuana cultivation facility or marijuana product manufacturing facility that provided the testing sample;

(6) maintaining a current list of authorized persons and restricting entry to the marijuana testing facility to those authorized persons;

(7) securing the marijuana testing facility during non-working hours;

(8) securing short-term and long-term storage areas when not in use;

(9) using a secured area to log in and aliquot samples;

(10) ensuring samples are stored appropriately; and

(11) documenting the disposal of samples, aliquots, and extracts. (Eff. 2/21/2016, Register 217)

3 AAC 306.655. Marijuana inventory tracking system

A marijuana testing facility shall use a marijuana inventory tracking system as provided in 3 AAC 306.730 to ensure all marijuana transported to the marijuana testing facility's premises is identified and tracked from the time the marijuana arrives at the marijuana testing facility to the use and destruction of the marijuana in testing, or to disposal in compliance with 3 AAC 306.740. (Eff. 2/21/2016, Register 217)

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 3/13/2020, Register 233)

3 AAC 306.665. Supplemental marijuana quality testing

(a) The board or director may at any time determine that the interests of the public require random supplemental testing of marijuana or a marijuana product. When the board or director requires random supplemental testing, the board will or director shall direct the marijuana cultivation facility that produced the marijuana, or the marijuana product manufacturing facility that manufactured the product, to submit a specified sample, batch, or packaged product to a designated marijuana testing facility. The material must be packaged in a manner that ensures the marijuana testing facility will be able to confirm that it has received and is testing the correct supplemental sample.

(b) When a marijuana testing facility receives a sample for random supplemental testing under this section, the marijuana testing facility shall

(1) perform any required laboratory test the board or director requests; and

(2) report its results to

(A) the board or director; and

(B) the facility that provided the sample.

(c) A marijuana testing facility that conducts laboratory testing under this section shall bill all costs directly to the marijuana cultivation facility or the marijuana product manufacturing facility that provided the samples for testing. (Eff. 2/21/2016, Register 217)

3 AAC 306.670. Reporting; verification

(a) A marijuana testing facility shall report the result of each required laboratory test directly into its marijuana inventory tracking system not later than 24 hours after the test is completed. A marijuana testing facility shall provide the final report

(1) in a timely manner to the marijuana establishment that submitted the sample; and

(2) to the director not later than 72 hours after the marijuana testing facility determines that results of tested samples exceed allowable levels.

(b) A marijuana testing facility shall establish procedures to ensure that reported results are accurate, precise, and scientifically valid. To ensure reported results are valid, a marijuana testing facility shall report results in compliance with guidelines prescribed by the board and include in a final report

(1) the name and location of the marijuana testing facility;

(2) the unique sample identifier assigned by the marijuana testing facility;

(3) the marijuana establishment or other person that submitted the testing sample;

(4) the sample identifier provided by the marijuana establishment or other person that submitted the testing sample;

(5) the date the marijuana testing facility received the sample;

(6) the chain of custody identifier;

(7) the date of the report;

(8) the type of marijuana or marijuana product tested;

(9) the test results;

(10) the units of measure; and

(11) any other information or qualifiers needed for interpretation of the test method and the results being reported, including any identified and documented discrepancy.

(c) A marijuana testing facility may amend a final report for clerical purposes except that test results may not be amended.

(d) A marijuana testing facility shall notify the director in writing not later than 24 hours after a significant equipment malfunction or failure that prevents the completion of required marijuana or marijuana product testing. The licensee shall notify the director of any action the licensee intends to take to provide for re-testing or destruction of the marijuana or marijuana product. (Eff. 2/21/2016, Register 217; am 8/23/2018, Register 227; am 11/8/2018, Register 228)

3 AAC 306.675. Records retention

A marijuana testing facility shall maintain the business records required under 3 AAC 306.755 for the period of time specified in that section. The books and records required under 3 AAC

306.755(a)(1) include

(1) test results;

(2) quality control and quality assurance records;

(3) standard operating procedures;

(4) chain-of-custody records;

(5) proficiency testing records;

(6) analytical data to include printouts generated by the instrumentation;

(7) accession numbers;

(8) specimen type;

(9) raw data of calibration standards and curves, controls, and subject results;

(10) final and amended reports;

(11) acceptable reference range parameters;

(12) the identity of the analyst; and

(13) the date of the analysis. (Eff. 2/21/2016, Register 217)

Article 7

Operating Requirements for All Marijuana Establishments

3 AAC 306.700. Marijuana handler permit

(a) Each agent of the marijuana establishment who sells, cultivates, manufactures, tests, or transports marijuana or a marijuana product, or who checks the identification of a consumer or visitor, and each licensee and employee must obtain a marijuana handler permit from the board before being licensed or beginning employment at a marijuana establishment.

(b) To obtain a marijuana handler permit, a person must complete a marijuana handler permit education course approved by the board, pass a written test demonstrating an understanding of the course material, and obtain a certificate of course completion from the course provider.

(c) To obtain a marijuana handler permit, a person who has completed the marijuana handler permit education course described in 3 AAC 306.701 shall present the course completion certificate to the director. The director shall issue a marijuana handler permit card valid for three years from the date of issue of the course completion certificate. A person may renew a card issued under this section by taking a marijuana handler permit education course approved by the board and passing a written test demonstrating an understanding of the course subjects.

(d) A licensee, employee, or agent of a marijuana establishment shall keep the marijuana handler permit card described in (c) of this section in that person's immediate possession or a valid copy on file on the premises at all times when on the licensed premises of the marijuana establishment.

(e) Repealed 8/21/2019.

(f) The board will not issue a marijuana handler permit to a person who

(1) has been convicted of a felony in the state and either

(A) less than five years have elapsed from the time of the person's conviction; or

(B) the person is currently on probation or parole for that felony,

(2) has within the two year period immediately preceding submission of an

application, been convicted of a class A misdemeanor in the state involving a controlled substance other than a Schedule VIA controlled substance, under AS 11.71.190,

(3) has within the two year period immediately preceding submission of an application, been convicted of a class A misdemeanor in the state relating to selling, furnishing, or distributing marijuana; or,

(4) is currently under indictment for an offense listed in this section. (Eff. 2/21/2016, Register 217; am 5/23/2018, Register 226; am 9/7/2018, Register 227; am 2/21/2019, Register 229; am 8/21/2019, Register 231)

3 AAC 306.701. Marijuana Handler Permit Education Course

(a) The board shall approve all marijuana handler permit education courses before a course provider may issue a marijuana handler permit.

(b) The topics that an approved marijuana handler permit education course covers must include

(1) AS 17.37, AS 17.38, and this chapter;

(2) the effects of consumption of marijuana and marijuana products;

(3) how to identify a person impaired by consumption of marijuana;

(4) how to determine valid identification;

(5) how to intervene to prevent unlawful marijuana consumption; and

(6) the penalty for an unlawful act by a licensee, an employee, or an agent of a marijuana establishment.

(c) An approved course provider shall update the course with any applicable change to AS 17.37, AS 17.38, and this chapter within 10 days of the effective date of the change. Notification of a change to an approved course shall be provided to the board within 3 days of the change.

(d) The board will review an approved marijuana handler permit education course at least once every three years, and may rescind approval of the course if the board finds that the education course contents are insufficient or inaccurate.

(e) An approved course provider shall provide continuous access to the course to the board and the director for the purpose of reviewing course materials at any time.

(f) The fee for a new marijuana handler permit education course and for a three-year review of a marijuana handler permit education course is $500. (Eff. 8/21/2019, Register 231)

3 AAC 306.703. Operations

A licensed marijuana establishment shall operate in accordance with the operating plan approved by the board. The licensee may request an operating plan change in accordance with 3 AAC 306.100(c). (Eff. 5/9/2019, Register 230)

3 AAC 306.705. Licensed premises; alteration

(a) A marijuana establishment license will be issued for specific licensed premises. Specific licensed premises must constitute a place clearly designated in a license application and described by a line drawing submitted with the license application. The licensed premises must

(1) have adequate space for its approved operations, including growing, manufacturing, processing, packaging, or storing marijuana or marijuana products; and

(2) be located and constructed to facilitate cleaning, maintenance, and proper operation.

(b) A marijuana establishment's license must be posted in a conspicuous place within the licensed premises.

(c) A holder of a marijuana establishment 1icense may not alter the functional floor plan or reduce or expand the area of the licensed premises without first obtaining the director's written approval. A marijuana establishment license holder seeking to change or modify the licensed premises must submit a request for approval of the change on a form prescribed by the board, along with

(1) the fee prescribed in 3 AAC 306.100;

(2) a drawing showing the proposed change;

(3) evidence that the proposed change conforms to any local restrictions; and

(4) evidence that the licensee has obtained any applicable local building permit. (Eff. 2/21/2016, Register 217)

3 AAC 306.710. Restricted access areas

(a) A marijuana establishment shall restrict access to any part of the licensed premises where marijuana or a marijuana product is grown, processed, tested, stored, or stocked.

(b) Except as provided in 3 AAC 306.325 for a retail marijuana store, each entrance to a restricted access area must be marked by a sign that says "Restricted access area. Visitors must be escorted." A marijuana establishment shall limit the number of visitors to not more than five visitors for each licensee, employee, or agent of the licensee who is actively engaged in

supervising those visitors.

(c) In a restricted access area, a licensee, employee, or agent of the marijuana establishment shall wear a current identification badge bearing the person's photograph. A person under 21 years of age may not enter a restricted access area. Any visitor to the restricted access area must

(1) show identification as required in 3 AAC 306.350 to prove that person is 21 years of age or older;

(2) obtain a visitor identification badge before entering the restricted access area; and

(3) be escorted at all times by a licensee, employee, or agent of the marijuana establishment. (Eff. 2/21/2016, Register 217)

3 AAC 306.715. Security alarm systems and lock standards

(a) Each licensee, employee, or agent of a marijuana establishment shall display an identification badge issued by the marijuana establishment at all times when on the marijuana establishment's licensed premises.

(b) The licensed premises of a marijuana establishment must have

(1) exterior lighting to facilitate surveillance;

(2) a security alarm system on all exterior doors and windows; and

(3) continuous video monitoring as provided in 3 AAC 306.720.

(c) A marijuana establishment shall have policies and procedures that

(1) are designed to prevent diversion of marijuana or marijuana product;

(2) prevent loitering;

(3) describe the use of any additional security device, such as a motion detector, pressure switch, and duress, panic, or hold-up alarm to enhance security of licensed premises; and

(4) describe the actions to be taken by a licensee, employee, or agent of the marijuana establishment when any automatic or electronic notification system alerts a local law enforcement agency of an unauthorized breach of security.

(d) A marijuana establishment shall use commercial grade, non- residential door locks on all exterior entry points to the licensed premises.

(e) A marijuana establishment shall notify the Department of Commerce, Community,

and Economic Development, Alcohol and Marijuana Control Office as soon as reasonably practical and in any case not more than 24 hours after any unauthorized access to the premises or the establishment's knowledge of evidence or circumstances that reasonably indicate theft, diversion, or unexplained disappearance of marijuana, marijuana products, or money from the licensed premises. (Eff. 2/21/2016, Register 217; am 5/25/2018, Register 226)

3 AAC 306.720. Video surveillance

(a) A marijuana establishment shall install and maintain a video surveillance and camera recording system as provided in this section. The video system must cover

(1) each restricted access area and each entrance to a restricted access area within the licensed premises;

(2) each entrance to the exterior of the licensed premises; and

(3) each point-of-sale area.

(b) At a marijuana establishment, a required video camera must be placed in a way that produces a clear view adequate to identify any individual inside the licensed premises, or within 20 feet of each entrance to the licensed premises. Both the interior and the exterior of each entrance to the facility must be recorded by a video camera.

(c) Any area where marijuana is grown, cured, or manufactured, or where marijuana waste is destroyed, must have a camera placement in the room facing the primary entry door, and in adequate fixed positions, at a height that will provide a clear, unobstructed view of the regular activity without a sight blockage from lighting hoods, fixtures, or other equipment, in order to allow for the clear and certain identification of any person and activity in the area at all times.

(d) Surveillance recording equipment and video surveillance records must be housed in a locked and secure area or in a lock box, cabinet, closet or other secure area that is accessible only to a marijuana establishment licensee or authorized employee, and to law enforcement personnel including a peace officer or an agent of the board. A marijuana establishment may use an offsite monitoring service and offsite storage of video surveillance records if security requirements at the offsite facility are at least as strict as onsite security requirements as described in this section.

(e) Each surveillance recording must be preserved for a minimum of 40 days, in a format that can be easily accessed for viewing. All recorded images must clearly and accurately display the time and date, and must be archived in a format that does not permit alteration of the recorded image, so that the images can readily be authenticated. After 40 days, a marijuana

establishment may erase video recordings, unless the licensee knows or should know of any pending criminal, civil, or administrative investigation for which the video recording may contain relevant information. (Eff. 2/21/2016, Register 217)

3 AAC 306.725. Inspection of licensed premises

(a) A marijuana establishment or an applicant for a marijuana establishment license under this chapter shall, upon request, make the licensed premises or the proposed licensed premises, including any place for storage, available for inspection by the director, an employee or agent of the board, or an officer charged with the enforcement of this chapter. The board or the director may also request a local fire protection agency or any other state agency with health and safety responsibilities to inspect licensed premises or proposed licensed premises.

(b) Inspection under this section includes inspection of the premises, facilities, qualifications of personnel, methods of operation, business and financial records, marijuana inventory tracking system, policies, and purposes of any marijuana establishment and of any applicant for a marijuana establishment license. (Eff. 2/21/2016, Register 217)

3 AAC 306.730. Marijuana inventory tracking system

(a) A marijuana establishment shall use a marijuana inventory tracking system capable of sharing information with the system the board implements to ensure all marijuana cultivated and sold in the state, and each marijuana product processed and sold in the state, is identified and tracked from the time the marijuana is a seed or cutting to a completed sale of marijuana or a marijuana product, or disposal of the harvest batch of marijuana or production lot of marijuana product.

(b) Marijuana delivered to a marijuana establishment must be weighed on a scale registered in compliance with 3 AAC 306.745. (Eff. 2/21/2016, Register 217; am 10/20/2018, Register 228)

3 AAC 306.735. Health and safety standards

(a) A marijuana establishment is subject to inspection by the local fire department, building inspector, or code enforcement officer to confirm that health or safety concerns are not present.

(b) A marijuana establishment shall take all reasonable measures and precautions to ensure that

(1) any person who has an illness, an open sore or infected wound, or other potential source of infection does not come in contact with marijuana or a marijuana product while the illness or source of infection persists;

(2) the licensed premises have

(A) adequate and readily accessible toilet facilities that are maintained in good repair and sanitary condition; and

(B) convenient handwashing facilities with running water at a suitable temperature; the marijuana establishment shall require employees to wash or sanitize their hands, and shall provide effective hand-cleaning, sanitizing preparations, and drying devices;

(3) each person working in direct contact with marijuana or a marijuana product conforms to good hygienic practices while on duty, including

(A) maintaining adequate personal cleanliness; and

(B) washing hands thoroughly in an adequate hand-washing area before starting work, after using toilet facilities, and at any other time when the person's hands may have become soiled or contaminated;

(4) litter, waste, and rubbish are properly removed; the waste disposal equipment must be maintained and adequate to

(A) avoid contaminating any area where marijuana or any marijuana product is stored, displayed, or sold;

(B) prevent causing odors or attracting pests;

(5) floors, walls, and ceilings are constructed to allow adequate cleaning, and are kept clean and in good repair;

(6) adequate lighting is installed in any area where marijuana or a marijuana product is stored, displayed, or sold, and where any equipment or utensil is cleaned;

(7) screening or other protection adequately protects against the entry of pests;

(8) each building, fixture, and other facility is maintained in sanitary condition;

(9) each toxic cleaning compound, sanitizing agent, and pesticide chemical is identified and stored in a safe manner to protect against contamination of marijuana or a marijuana product and in compliance with any applicable local, state, or federal law;

(10) adequate sanitation principles are used in receiving, inspecting, transporting,

and storing marijuana or a marijuana product; and

(11) marijuana or a marijuana product is held in a manner that prevents the growth of bacteria, microbes, or other undesirable microorganisms.

(c) A marijuana establishment shall ensure that any marijuana or marijuana product that has been stored beyond its usable life, or was stored improperly, is not salvaged and returned to the marketplace. In this subsection, "stored improperly" means being exposed to extremes in temperature, humidity, smoke, fumes, pressure, or radiation due to a natural disaster, fire, accident, or equipment failure.

(d) If a marijuana establishment does not have reliable information about the age or storage conditions of marijuana or a marijuana product in its possession, the marijuana establishment may salvage the marijuana only if

(1) a licensed marijuana testing facility determines from quality assurance testing that the marijuana or marijuana product meets all applicable standards of moisture, potency, and contaminants;

(2) inspection of the premises where a disaster or accident occurred shows that the marijuana or marijuana product stored there was not adversely affected by the disaster or accident; and

(3) the marijuana establishment maintains a record of the salvaged marijuana or marijuana product in its marijuana inventory tracking system, including the name, lot number, and final disposition. (Eff. 2/21/2016, Register 217)

3 AAC 306.740. Waste disposal

(a) A marijuana establishment shall store, manage, and dispose of any solid or liquid waste, including wastewater generated during marijuana cultivation production, processing, testing, or retail sales, in compliance with applicable federal, state, and local statutes, ordinances, regulations, and other law.

(b) Marijuana waste must be rendered unusable for any purpose for which it was grown or produced before it leaves a marijuana establishment. Marijuana waste includes

(1) marijuana plant waste, including stalks, leaves, and stems that have not been processed with solvent;

(2) solid marijuana sample plant waste in the possession of a marijuana testing facility;

(3) marijuana or a marijuana product that has been found by the licensee unfit for sale or consumption;

(4) expired marijuana products; and

(5) other waste as determined by the board.

(c) A marijuana establishment shall

(1) give the board notice, on a form prescribed by the board, not later than three days before making the waste unusable and disposing of it; however, the director may authorize immediate disposal on an emergency basis;

(2) record the waste in the marijuana inventory tracking system required under 3 AAC 306.730; and

(3) keep a record through the marijuana inventory tracking system of the final destination of marijuana waste made unusable.

(d) Marijuana plant waste must be made unusable by grinding the marijuana plant waste and mixing it with at least an equal amount of other compostable or non-compostable materials. A marijuana establishment may use another method to make marijuana waste unusable if the board approves the method in advance. Material that may be mixed with the marijuana waste includes

(1) compostable materials including food waste, yard waste, vegetable based grease or oils, or other wastes approved by the board when the mixed material can be used as compost feedstock or in another organic waste method such as an anaerobic digester with approval of any applicable local government entity; or

(2) non-compostable materials including paper waste, cardboard waste, plastic waste, oil, or other wastes approved by the board when the mixed material may be delivered to a permitted solid waste facility, incinerator, or other facility with approval of any applicable local government entity.

(e) If marijuana or a marijuana product is found by, or surrendered to, a law enforcement officer including a peace officer or an airport security officer, the officer may dispose of the marijuana or marijuana product as provided in this section or by any method that is allowed under any applicable local ordinance. (Eff. 2/21/2016, Register 217; am 10/20/2018, Register 228)

3 AAC 306.745. Standardized scales

A marijuana establishment shall use registered scales in compliance with AS 45.75.080 (Weights and Measures Act). A marijuana establishment shall

(1) maintain registration and inspection reports of scales registered under AS 45.75.080 and 17 AAC 90.920 - 17 AAC 90.935; and

(2) upon request by the board or the director, provide a copy of the registration and inspection reports of the registered scales to the board or the director for review. (Eff. 2/21/2016, Register 217)

3 AAC 306.750. Transportation

(a) Marijuana or a marijuana product may only be transported to a licensed marijuana establishment by a licensee or an agent or employee of a licensee.

(b) A marijuana establishment from which a shipment of marijuana or marijuana product originates is responsible for preparing, packaging, and securing the marijuana or marijuana product during shipment, for recording the transfer in the marijuana inventory tracking system, and for preparing the transport manifest. An individual transporting marijuana in compliance with this section shall have a marijuana handler permit required under 3 AAC 306.700.

(c) When marijuana or a marijuana product is transported, the marijuana establishment that originates the transport shall use the marijuana inventory tracking system to record the type, amount and weight of marijuana or marijuana product being transported, the name of the transporter, the time of departure and expected delivery, and the make, model, and license plate number of the transporting vehicle. A complete printed transport manifest on a form prescribed by the board must be kept with the marijuana or marijuana product at all times.

(d) During transport, the marijuana or marijuana product must be in a sealed package or container and in a locked, safe, and secure storage compartment in the vehicle transporting the marijuana or marijuana product. The sealed package may not be opened during transport. A vehicle transporting marijuana or a marijuana product must travel directly from the shipping marijuana establishment to the receiving marijuana establishment, and may not make unnecessary stops in between except to deliver or pick up marijuana or a marijuana product at another licensed marijuana establishment.

(e) When a marijuana establishment receives marijuana or a marijuana product transported in compliance with this section, the recipient of the shipment shall use the marijuana inventory tracking system to report the type, amount, and weight of marijuana or marijuana

product received. The recipient shall refuse to accept any shipment of marijuana or marijuana product that is not accompanied by the transport manifest.

(f) A marijuana establishment shall keep records of all marijuana or marijuana products shipped from or received at that marijuana establishment as required under 3 AAC 306.755.

(g) A marijuana establishment may transport marijuana or a marijuana product to and from a trade show or similar industry event in accordance with 3 AAC 306.760 and this section. (Eff. 2/21/2016, Register 217; am 10/11/2017, Register 224; am 8/11/2018, Register 227)

3 AAC 306.755. Business records

(a) A marijuana establishment shall maintain in a format that is readily understood by a reasonably prudent business person

(1) all books and records necessary to fully account for each business transaction conducted under its license for the current year and three preceding calendar years; records for the last six months must be maintained on the marijuana establishment's licensed premises; older records may be archived on or off premises;

(2) a current employee list setting out the full name and marijuana handler permit number of each licensee, employee, and agent who works at the marijuana establishment;

(3) the business contact information for vendors that maintain video surveillance systems and security alarm systems for the licensed premises;

(4) records related to advertising and marketing;

(5) a current diagram of the licensed premises including each restricted access area;

(6) a log recording the name, and date and time of entry of each visitor permitted in a restricted access area;

(7) all records normally retained for tax purposes;

(8) accurate and comprehensive inventory tracking records that account for all marijuana inventory activity from seed or immature plant stage until the retail marijuana or retail marijuana product is sold to a consumer, to another marijuana establishment, or destroyed; and

(9) transportation records for marijuana and marijuana products as required under 3 AAC 306.750(f).

(b) A marijuana establishment shall provide any record required to be kept on the licensed premises to an employee of the board upon request. Any record kept off premises must

be provided to the board's employees not later than three business days after a request for the record.

(c) A marijuana establishment shall exercise due diligence in preserving and maintaining all required records. Loss of records and data, including electronically maintained records, does not excuse a violation of this section. The board may determine a failure to retain records required under this section to be a license violation affecting public safety. (Eff. 2/21/2016, Register 217)

3 AAC 306.760. Trade Shows

(a) Licensed marijuana establishments must comply with this section when participating in trade shows and similar industry events.

(b) A licensed cultivation facility may bring one plant to the trade show or event for display. The removal from and return of the plant to the licensed premises must be tracked in the inventory tracking system. Any marijuana removed from the plant at the event must be retained by the licensee and returned to the licensed premises.

(c) A licensed cultivation facility and a licensed retail facility may bring up to one ounce of marijuana to the trade show or event for display. The removal from and return of the marijuana to the licensed premises must be tracked in the marijuana inventory tracking system. The marijuana shall be contained so that the marijuana may not be removed from the display's immediate vicinity by a member of the public.

(d) A licensed product manufacturing facility and a licensed retail facility may bring one sample package of each marijuana product made or sold by the facility to the event for display. The removal from and return of the marijuana product to the licensed premises must be tracked in the marijuana inventory tracking system. The marijuana product must remain packaged in the approved packaging throughout the duration of the event.

(e) A licensed testing facility may not perform required tests on samples from a licensed facility at any trade show or similar event.

(f) No marijuana or marijuana product may be sold or distributed by a licensee at the event.

(g) Marijuana and marijuana product displayed at an event by a licensee must be handled only by a licensee, or employee or agent of a licensee, who holds a valid marijuana handler permit.

(h) Advertising or promotions displayed or distributed at the event by a licensee shall comply with the requirements of this chapter. (Eff. 8/11/2018, Register 227)

3 AAC 306.770. Signs, merchandise, advertisements, and promotions

(a) Business cards and merchandise, including t-shirts, hats, and stickers, that are distributed by a licensed marijuana establishment and contain only the business name and logo, license name, and location and contact information, are not advertising or promotions.

(b) A licensed marijuana establishment may have not more than three signs that are visible to the general public from the public right-of-way. Two of the three signs may only be placed in the marijuana facility's window or attached to the outside of the licensed premises. The size of each sign may not exceed 4,800 square inches. A sign meeting these requirements is not advertising or promotions.

(c) An advertisement for a licensed marijuana establishment and for marijuana or a marijuana product must include the business name and license number.

(d) An advertisement for a licensed marijuana establishment is exempt from providing the warning statement in (g) of this section if

(1) the advertisement contains only the business name, logo, business type, contact information, location, and hours of operation; and

(2) the advertisement does not contain any written information about marijuana or a marijuana product or any photographic or illustrative depictions of marijuana or a marijuana product, other than depictions contained within the established business name font and logo.

(e) A logo or an advertisement for a licensed marijuana establishment and for marijuana or a marijuana product may not contain a statement or illustration that

(1) is false or misleading;

(2) promotes excessive consumption;

(3) represents that the use of marijuana has curative or therapeutic effects;

(4) depicts a person under 21 years of age consuming marijuana; or

(5) includes any object or character, including a toy, a cartoon character, or any other depiction that appeals to a person under 21 years of age.

(f) An advertisement for a licensed marijuana establishment and for marijuana or a marijuana product may not be placed

(1) within 1,000 feet of the perimeter of any child-centered facility, including a

school, a child care facility or other facility providing services to children, a playground or recreation center, a public park, a library, or a game arcade that is open to persons under 21 years of age, except when included in an established publication intended for general readership;

(2) on or in a public transit vehicle or public transit shelter;

(3) on or in a publicly owned or operated property;

(4) within 1,000 feet of a substance abuse or treatment facility; or

(5) on a campus for postsecondary education.

(g) An advertisement for marijuana or any marijuana product must contain each of the following warnings, that must be plainly visible and at least half the font size of an advertisement on a sign, and no smaller than size nine font when the advertisement is in printed form; warnings in audio advertisements must be intelligible and played at the same speed as the advertisement;

(1) "Marijuana has intoxicating effects and may be habit forming and addictive.";

(2) "Marijuana impairs concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence.";

(3) "There are health risks associated with consumption of marijuana."';

(4) "For use only by adults twenty-one and older. Keep out of the reach of children.";

(5) "Marijuana should not be used by women who are pregnant or breast feeding."

(h) A licensed marijuana establishment that advertises by means of a web page must utilize appropriate measures to ensure that individuals visiting the web page are 21 years of age or older.

(i) A licensed marijuana establishment may not engage in advertising by means of marketing directed towards location-based devices, including cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 years of age or older and the application includes a permanent and easy opt-out feature.

(j) As long as no more than 30 percent of the event's participants and audience is reasonably expected to be under 21 years of age, a licensed marijuana establishment may sponsor

(1) an industry trade show;

(2) a charitable event;

(3) a sports event or competition;

(4) a concert; or

(5) any other even approved in advance by the board.

(k) A licensed marijuana establishment may not encourage the sale of marijuana or a marijuana product

(1) by using giveaway coupons for marijuana or a marijuana product as promotional materials;

(2) by conducting games or competitions related to the consumption of marijuana or a marijuana product;

(3) by providing promotional materials or activities of a manner or type that would be especially appealing to children; or

(4) by holding promotional activities outside of the licensed premises. (Eff. 10/17/2018, Register 228)

Article 8

Enforcement; Civil Penalties

3 AAC 306.800. Inspection and investigation

(a) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity, may

(1) Inspect the licensed premises of a marijuana establishment, including any marijuana and marijuana product on the premises, equipment used in cultivating, processing, testing, or storing marijuana, the marijuana establishment's marijuana inventory tracking system, business records, and computers, at any reasonable time and in a reasonable manner;

(2) issue a report or notice as provided in 3 AAC 306.805; and

(3) as authorized under AS 17.38.131, exercise peace officer powers and take any other action the director determines is necessary.

(b) A marijuana establishment, and any licensee, employee, or agent in charge shall cooperate with the director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity, to enforce the laws related to marijuana, including

(1) permitting entry upon and inspection of the licensed premises; and

(2) providing access to business records at reasonable times when requested by the director, an enforcement agent, an employee of the board, or a peace officer. (Eff. 2/21/2016, Register 217)

3 AAC 306.805. Report or notice of violation

(a) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity, may issue an inspection report, an advisory report, or a notice of violation before taking action to suspend or revoke a marijuana establishment license.

(b) An inspection report documents an investigator's inspection of licensed premises. An inspection report must be prepared on a form the board prescribes and include information prescribed under AS 17.38 or this chapter or that the board requires.

(c) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity may issue an advisory notice when an incident occurs or a defect is noted that could result in a violation of a statute, regulation, or municipal ordinance. An advisory

notice may result from an inspection report, but is not a basis for administrative action unless the incident or defect continues or is not corrected.

(d) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity may issue a notice of violation if an inspection report or other credible information shows a marijuana establishment is in violation of AS 17.38, this chapter, or other law relating to marijuana. The notice of violation must be delivered to the marijuana establishment at its licensed premises, and to the board. The notice must describe any violation, and cite the applicable statute, regulation, or order of the board. A marijuana establishment that receives a notice of violation may respond to the notice orally or in writing, and may, not later than 10 days after receiving the notice, request an opportunity to appear before the board. A notice of violation may be the basis of a proceeding to suspend or revoke a marijuana establishment's license as provided under 3 AAC 306.810. (Eff. 2/21/2016, Register 217)

3 AAC 306.810. Suspension or revocation of license

(a) The board will suspend or revoke a marijuana establishment license issued under this chapter if any licensee is convicted of a felony or of a crime listed in 3 AAC 306.010(d)(2) or (3), or if the board becomes aware that a licensee did not disclose a previous felony conviction or a conviction of a crime listed in 3 AAC 306.010(d)(2) or (3).

(b) The board may suspend or revoke a license issued under this chapter, refuse to renew a license, or impose a civil fine, if the board finds that a licensee for any marijuana establishment

(1) misrepresented a material fact on an application for a marijuana establishment license, or an affidavit, report, or signed statement under AS 17.38 or this chapter; or

(2) is following any practice or procedure that is contrary to the best interests of the public, including

(A) using any process not approved by the board for extracting or manufacturing marijuana concentrate or products; or

(B) selling or distributing any marijuana concentrate or product that has not been approved by the board;

(3) failed, within a reasonable time after receiving a notice of violation from the director, to correct any defect that is the subject of the notice of violation of

(A) AS 17.38 or this chapter;

(B) a condition or restriction imposed by the board; or

(C) other applicable law;

(4) knowingly allowed an employee or agent to violate AS 17.38, this chapter, or a condition or restriction imposed by the board;

(5) failed to comply with any applicable public health, fire, safety, or tax statute, ordinance, regulation, or other law in the state; or

(6) used the licensed premises for an illegal purpose including gambling, possession or use of narcotics other than marijuana, prostitution, or sex trafficking.

(c) A local government may notify the director if it obtains evidence that a marijuana establishment has violated a provision of AS 17.38, this chapter, or a condition or restriction the board has imposed on the marijuana establishment. Unless the board finds that the local government's notice is arbitrary, capricious, and unreasonable, the director shall prepare the notice and supporting evidence as an accusation against the marijuana establishment under AS 44.62.360, and conduct proceedings to resolve the matter as described under 3 AAC 306.820. (Eff. 2/21/2016, Register 217)

3 AAC 306.812. Suspension or revocation of marijuana handler permit

(a) The board may suspend or revoke a permit issued under 3 AAC 306.700, or impose a civil fine if the board finds that a marijuana handler permit holder acted in violation of a statute, regulation, or municipal ordinance.

(b) The director may request the board to suspend or revoke a permit issued under 3 AAC 306.700 by submitting a written statement of reasons for the requested action to the permit holder. A licensee may request the board to suspend or revoke a permit issued under 3 AAC 306.700 by submitting a written statement of reasons for the requested action to the director and the permit holder. The director shall bring the request to the board at the next available meeting.

(c) The board will provide electronic notice to the permit holder at the electronic mail address provided by the permit holder in the holder's permit application that a request to take action on the permit will be addressed at the board's next scheduled meeting.

(d) The director shall maintain a list of persons with a suspended, revoked, or expired permit. The list shall be made available to licensees and the public.

(e) A person may appeal the board's decision to suspend or revoke the person's permit in accordance with AS 44.62.390 – 44.62.560.

(f) Notwithstanding the requirements of (a) – (e) of this section, the director may suspend

a permit issued under 3 AAC 306.700 if the permit holder's check is returned for insufficient funds, until the permit fee and any associated bank fee is paid. (Eff. 5/23/2018, Register 226; am 03/25/2020, Register 233)

3 AAC 306.815. Suspension or revocation based on act of employee

If, in a proceeding to suspend or revoke a marijuana establishment license under 3 AAC 306.810 and 3 AAC 306.820, evidence shows that an employee or agent of a licensed marijuana establishment was responsible for an act that would justify suspension or revocation of the marijuana establishment's license if committed by a licensee, the board may find that licensee knowingly allowed the act if

(1) the licensee

(A) was physically present when the violation occurred;

(B) knew or should have known the violation was occurring; and

(C) did not take action to stop the violation;

(2) the licensee failed to adequately supervise the agent or employee;

(3) the licensee failed to adequately train the agent or employee in the requirements of AS 17.38 and this chapter relating to marijuana; or

(4) the licensee was reckless or careless in hiring the agent or employee. (Eff. 2/21/2016, Register 217)

3 AAC 306.820. Procedure for action on license suspension or revocation

A proceeding to suspend or revoke a license must be initiated by service of an accusation on the marijuana establishment in compliance with AS 44.62.360 and 44.62.380, and conducted in compliance with AS 44.62.330 - 44.62.630. The accusation must be served at the address of the licensed premises, or at the address of the licensee who is responsible for management and compliance with laws as listed in the marijuana establishment license application in compliance with 3 AAC 306.020(b)(5). The marijuana establishment is entitled to a hearing as provided under AS 44.62.390. (Eff. 2/21/2016, Register 217)

3 AAC 306.825. Summary suspension to protect public health, safety, or welfare

(a) If the director finds that a person holding a marijuana establishment license has acted and appears to be continuing to act in a way that constitutes an immediate threat to the public health, safety or welfare, the director may issue an order immediately suspending the license of

that person, and ordering an immediate stop to the activity that constitutes the threat to the public health, safety, or welfare.

(b) When the director issues a summary suspension under this section, the director shall immediately give the marijuana establishment subject to the summary suspension order notice of the reasons for the summary suspension, and of the time and place for an expedited hearing before the board. Unless the marijuana establishment subject to the summary suspension order requests a delay, the hearing will be held not later than five days after the director gives notice of the reasons for the summary suspension and the scheduled hearing. (Eff. 2/21/2016, Register 217)

3 AAC 306.830. Seizure of marijuana or marijuana product

(a) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity, may seize marijuana or any marijuana product from a licensed or previously licensed marijuana establishment if the marijuana establishment has

(1) any marijuana or marijuana product not properly logged into the marijuana establishment's marijuana inventory tracking system;

(2) any adulterated marijuana food or drink product prohibited under 3 AAC 306.510(a)(4);

(3) any marijuana or marijuana product that is not properly packaged and labeled as provided in

(A) 3 AAC 306.470 and 3 AAC 306.475; or

(B) 3 AAC 306.565 and 3 AAC 306.570; or

(4) not renewed its license as required under 3 AAC 306.035.

(b) If the director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity seizes marijuana or a marijuana product under this section, the director shall update the marijuana inventory control tracking system to reflect the seizure and ensure that the seized items are stored in a reasonable manner. The director shall immediately give the marijuana establishment from which the marijuana or marijuana product was seized notice of the reasons for the seizure and the time and place of a hearing before the board. Unless the marijuana establishment from which the marijuana or marijuana product was seized requests a delay, the hearing will be held not later than 10 days after the director gives notice of the reasons for seizure and the scheduled hearing. If the seizure occurs in connection with a

summary suspension under 3 AAC 306.825, the hearing will be combined with a hearing on the summary suspension.

(c) If the marijuana establishment from which the marijuana or marijuana product was seized does not request or participate in a hearing under this section, or if after a hearing the board finds that seizure of the marijuana or marijuana product was justified, the marijuana or marijuana product will be destroyed by burning, crushing, or mixing with other material to make the marijuana or marijuana product unusable as provided in 3 AAC 306.740.

(d) If a seizure under this section is of marijuana plants in place in a licensed standard or limited marijuana cultivation facility, the seizure order may direct the marijuana cultivation facility to continue care of the plants until the hearing, but prohibit any transfer, sale, or other commercial activity related to the plants. (Eff. 2/21/2016, Register 217)

3 AAC 306.835. Hearing

(a) Except as provided in 3 AAC 306.825 or 3 AAC 306.830, a person aggrieved by an action of the director, an enforcement agent, or an employee of the board may request a hearing in compliance with AS 44.62.390 by filing a notice of defense not later than 15 days after receiving a written accusation. Failure to file a notice of defense as provided in this section constitutes a waiver of the right to a hearing.

(b) When an aggrieved person requests a hearing under this section, the board may request the office of administrative hearings to conduct the hearing in compliance with due process, AS 44.62.330 - 44.62.630 (Administrative Procedure Act), and 2 AAC 64.100 - 2 AAC 64.990, as applicable. (Eff. 2/21/2016, Register 217)

3 AAC 306.840. Civil fines

(a) The board may, in addition to any other penalties imposed under this chapter, impose a civil fine on a marijuana establishment, licensee, or person that the board determines has violated a provision of AS 17.38 or this chapter.

(b) In a proceeding under 3 AAC 306.810 - 3 AAC 306.830, the board may impose a civil fine, not to exceed the greater of

(1) an amount that is three times the monetary gain realized by the marijuana establishment, licensee, or person as a result of the violation, as determined by the board;

(2) $10,000 for the first violation;

(3) $30,000 for the second violation; or

(4) $50,000 for the third or subsequent violation. (Eff. 2/21/2016, Register 217)

3 AAC 306.845. Appeal

(a) An aggrieved party may appeal to the board regarding any action of the director, an enforcement agent, or an employee of the board charged with enforcing AS 17.38 or this chapter, including suspending or revoking a license, seizing marijuana or a marijuana product, or imposing a civil fine.

(b) A person aggrieved by a final decision of the board suspending or revoking a license under this chapter or imposing a civil fine may appeal to the superior court under AS 44.62.560. (Eff. 2/21/2016, Register 217)

3 AAC 306.850. Surrender or destruction of license

A license issued under this chapter must be surrendered to the director, an enforcement agent, or an employee of the board on demand if the director or board so orders. A license issued under this chapter must be surrendered not later than 10 days after the marijuana establishment loses or vacates the licensed premises. If a license is destroyed, the marijuana establishment shall promptly notify the board. (Eff. 2/21/2016, Register 217)

Article 9

General Provisions

3 AAC 306.905. Public records

Marijuana establishment applications are public records. The board may, at the request of any applicant, designate materials confidential if they

(1) contain proprietary information including trade secrets; or

(2) are required to be kept confidential by any federal or state law. (Eff. 2/21/2016, Register 217)

3 AAC 306.910. Refusal to sell marijuana

Nothing in this chapter prohibits a licensee from refusing to sell marijuana or marijuana products to any person unless that refusal is a violation of AS 18.80.210. (Eff. 2/21/2016, Register 217)

3 AAC 306.915. Exercise of authority

Until a marijuana establishment surrenders its license to the board, and so long as business is conducted under the license on the licensed premises, the person holding the license, whether an individual, a partnership, a limited liability company, a corporation, or a local government, is responsible and liable for the conduct of the business. Any individual exercising actual authority over the conduct of business on the licensed premises must be the holder of the marijuana establishment license, or an agent or employee of that person unless the board has approved a transfer of the license to a different person. (Eff. 2/21/2016, Register 217)

3 AAC 306.920. Death of licensee

(a) If an individual who is the sole licensee of a marijuana establishment dies, the marijuana establishment shall cease operation. A personal representative appointed by the superior court for the estate of the deceased licensee may submit to the director a written request to reopen the business, along with a copy of the court order appointing the personal representative. If the licensed marijuana establishment is in good standing, and the personal representative is not a person prohibited from holding a marijuana establishment license under AS 17.38.200(i), the director shall grant permission to the personal representative to operate the business on the licensed premises subject to (b) of this section. In this section, a marijuana

establishment is in good standing if the marijuana establishment

(1) has a valid current license;

(2) has paid all fees due under this chapter and all local taxes due; and

(3) has no unresolved suspension or revocation proceedings against it.

(b) A personal representative authorized to operate a marijuana establishment under (a) of this section must submit an application for a transfer of ownership to another person in compliance with 3 AAC 306.045 not later than 90 days after obtaining the director's approval to operate. The board may extend the time allowed in this section for another 90 days if the personal representative requests the additional time.

(c) This section does not authorize the transfer of a marijuana establishment license unless the board approves the personal representative's application for transfer of license to another person. (Eff. 2/21/2016, Register 217)

3 AAC 306.925. Submissions to the board

Except as otherwise specifically provided in this chapter, applications and communications of a formal nature must be submitted in writing, upon prescribed forms as appropriate, to the board at its main office, and are not considered timely filed until received there. (Eff. 12/28/2016, Register 220)

3 AAC 306.930. Staff

(a) The director of the board is responsible for the management of the board's offices, the administration of the board's functions, and the enforcement of AS 17.38 and this chapter.

(b) The director shall employ and supervise necessary clerical and investigative personnel and shall prescribe their duties and authority.

(c) The director shall prescribe forms for application for new licenses, transfers, and renewals and for endorsements, petitions, and other necessary documents. (Eff. 12/28/2016, Register 220)

3 AAC 306.935. Conduct of board meetings

(a) The board will, at the first meeting of each calendar year, select a chair from among its members to preside over board meetings during the ensuing year.

(b) The board will meet at the call of the chair after reasonable public notice is given.

(c) For the purposes of AS 17.38.111(b), the whole membership is all persons appointed

and serving as members of the board.

(d) The director is responsible for preparing an informative agenda for each board meeting. A copy of the agenda must be available for inspection by persons who request it. (Eff. 12/28/2016, Register 220)

3 AAC 306.990. Definitions

(a) In AS 17.38 and this chapter,

(1) "assisting" does not include

(A) using, displaying, purchasing, or transporting marijuana in excess of the amount allowed in AS 17.38.020;

(B) possessing, growing, processing, or transporting marijuana plants in excess of the number allowed in AS 17.38.020;

(C) growing marijuana plants for another person in a place other than

(i) that other person's primary residence; or

(ii) a garage, shed, or similar place under the other person's control;

(2) "delivering"

(A) means handing to a person who purchases the product on licensed premises only;

(B) does not include transferring or transporting to a consumer off licensed premises;

(3) "flowering" means a marijuana plant that has visible crystals, buds, or flowers, or for which the exposure to light is scheduled with the intent to produce crystals, buds, or flowers;

(4) "immature" means a marijuana plant 18 inches or less in height with no visible crystals, buds, or flowers, and in which the exposure to light is scheduled with the intent to prevent formation of crystals, buds, or flowers;

(5) "in public"

(A) means in a place to which the public or a substantial group of people has access;

(B) except as provided in (C) of this paragraph, includes highways, transportation facilities, schools, places of amusement or business, parks, playgrounds,

prisons, and hallways, lobbies and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence;

(C) does not include an area on the premises of a licensed retail marijuana store designated for onsite consumption under 3 AAC 306.305;

(6) “mature” means a marijuana plant over 18 inches in height;

(7) "personal cultivation" does not include

(A) using, displaying, purchasing, or transporting marijuana in excess of the amount allowed in AS 17.38.020;

(B) possessing, growing, processing, or transporting marijuana plants in excess of the number allowed in AS 17.38.020;

(C) growing marijuana plants for another person in a place other than

(i) that other person's primary residence; or

(ii) a garage, shed, or similar place under the other person's control;

(8) "possess" means having physical possession or control over property;

(9) "registration" means licensure or license.

(b) In this chapter, unless the context requires otherwise,

(1) "adulterated food or drink product"

(A) means a product that is intended to be consumed orally and that existed without marijuana in a form ready for consumption before marijuana was added by any process;

(B) does not include raw ingredients that are combined with marijuana in a manufacturing process;

(2) "agent"

(A) means a representative who is authorized to act for a licensee, the board, or the director;

(B) includes a contractor or subcontractor;

(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;

(4) "bud and flower" means the hairy, sticky, or crystal-covered parts of mature female marijuana plants generally harvested for their high potency content;

(5) "business day" means a day other than a Saturday, Sunday, or a state holiday;

(6) "CBD" means cannabidiol;

(7) "CBDA" means CBD Acid;

(8) "CBN" means cannabinol;

(9) "clones" or "cuttings" means small starter plants

(A) shorter than eight inches tall; and

(B) used to propagate marijuana plants;

(10) “compensation"

(A) means money, bartered objects or services, or anything else of value, whether given as payment or voluntarily as a donation, when accepted by a person who gives, distributes, or delivers marijuana to another;

(B) includes a cover charge, a delivery charge, and a packaging charge;

(11) “concentrate" or "marijuana concentrate" means resin, oil, wax, or any other substance produced by extracting or isolating cannabinoids, THC, or other components from a marijuana plant or from materials harvested from a marijuana plant;

(12) “consumer"

(A) means an individual who purchases and uses marijuana or a marijuana product; and

(B) does not include a marijuana establishment that resells marijuana or incorporates marijuana into a manufactured product;

(13) “contaminant" means one or more of the following:

(A) harmful microbials, including Escherichia coli (E. coli) or Salmonella species;

(B) residual solvents;

(C) poisons or toxins;

(D) harmful chemicals, including pesticides;

(E) dangerous molds, mildew, or filth;

(14) “controlling interest" means ownership or control of

(A) 50 percent or more of the ownership interest or voting shares of a

corporation; or

(B) less than 50 percent if a person and family members jointly exert actual control as demonstrated by

(1) making decisions for the corporation without independent participation of other owners;

(2) exercising day-to-day control over the corporation's affairs;

(3) disregarding formal legal requirements;

(4) using corporation funds for personal expenses or investments, or intermingling corporation finances with personal finances; or

(5) taking other actions that indicate the corporation is a mere instrumentality of the individual;

(15) "distribute" means spread out or pass out among several or many members of a group;

(16) “edible" and "edible marijuana product"

(A) means a marijuana product that is intended to be consumed orally, whether as food or drink;

(B) does not include an adulterated food or drink product;

(17) “extraction" or "marijuana extraction" means production of marijuana concentrate by any water-based, food-based, or solvent-based method;

(18) "homogenous" means a component or quality, such as THC, is spread evenly throughout the product, or can be found in equal amounts in each part of a multi-serving unit;

(19) "individual" means a natural person;

(20) "in-house testing"

(A) means laboratory testing as provided in 3 AAC 306.635 and that does not meet the requirements of 3 AAC 306.645;

(B) does not include consumption of any marijuana or marijuana product on the licensed premises;

(21) “licensed"

(A) means holding a current and valid license that the board has issued under this chapter;

(B) does not include holding a formerly valid license that has expired or

that the board has suspended or revoked;

(22) “licensee" means each individual identified in 3 AAC 306.020 who must be listed in an application for a marijuana establishment license under this chapter;

(23) “licensed premises" means any or all designated portions of a building or structure, or rooms or enclosures in the building or structure, at the specific address for which a marijuana establishment license is issued, and used, controlled, or operated by the marijuana establishment to carry out the business for which it is licensed;

(24) “lot" or "production lot" means a group of marijuana products that were prepared at the same time from the same batch of marijuana, using the same recipe or process;

(25) “marijuana" has the meaning given in AS 17.38.900;

(26) “marijuana cultivation facility" has the meaning given in AS 17.38.900;

(27) “marijuana infused product"

(A) means a product that contains marijuana or marijuana concentrate and is intended for human use;

(B) does not include bud and flower marijuana;

(28) “marijuana plant" means a living organism of the genus Cannabis capable of absorbing water and inorganic substances through its roots, and synthesizing nutrients in its leaves by photosynthesis;

(29) “marijuana product" has the meaning given in AS 17.38.900;

(30) “marijuana product manufacturing facility" has the meaning given in AS 17.38.900;

(31) "peace officer" has the meaning given in AS 01.10.060;

(32) “person" has the meaning given in AS 01.10.060;

(33) “process" or "processing" means harvesting, curing, drying, or trimming of a marijuana plant;

(34) “propagate" means to cause a marijuana plant to grow by planting clones or cuttings, and nurturing them into viable plants up to eight inches in height;

(35) “recreation or youth center" means a building, structure, athletic playing field, or playground

(A) run or created by a local government or the state to provide athletic,

recreational, or leisure activities for persons under 21 years of age; or

(B) operated by a public or private organization licensed to provide shelter, training, or guidance for persons under 21 years of age;

(36) “retail marijuana store" has the meaning given in AS 17.38.900;

(37) “square feet under cultivation"

(A) means an area of the licensed premises of a standard or limited marijuana cultivation facility that is used for growing marijuana, measured from the perimeter of the floor or growing space for marijuana;

(B) does not include a processing or storage area, an equipment storage area, an office, a hallway, or another area, if that area is not used for growing marijuana;

(38) “THC" means tetrahydrocannabinol, the main psychoactive substance found in marijuana;

(39) “THCA" means THC Acid;

(40) "transaction" means one single occurrence in which marijuana or a marijuana product not exceeding the limits set out in 3 AAC 306.355 is passed from a licensed marijuana establishment to another person.

(41) “drunken person” has the meaning given in AS 04.21.080(b)(9);

(42) “freestanding” has the meaning given in AS 18.35.301(i)(1);

(43) “intoxicated” has the meaning given in AS 11.81.900(b)(34);

(44) “marijuana consumption area” means a designated area within the licensed premises of a retail marijuana store that holds a valid onsite consumption endorsement, where marijuana and marijuana products, excluding marijuana concentrates, may be consumed.

(45) “retail marijuana store premises” means an area encompassing both the retail marijuana store and any marijuana consumption area.

(46) “sight-obscuring wall or fence” means a wall or fence, including any gates constructed of solid material and a minimum of six feet in height.

(47) “total CBD” means the sum of CBD and (0.877)*(CBDA);

(48) “total THC” means the sum of THC and (0.877)*(THCA). (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

03/13/2020, Register 233)

3 AAC 306.995. Internet and phone orders; exterior window or curbside pickup. (a) Notwithstanding 3 AAC 306.305(a) and 3 AAC 306.310(a)(5), a retail marijuana store licensed under 3 AAC 306.300 may accept internet or telephonic orders of marijuana or marijuana products from consumers if consumers intend to be physically present at the time of purchase on the licensed premises or at the location designated for exterior window or curbside pickup before November 15, 2020.

(b) A retail marijuana store licensed under 3 AAC 306.300 may provide exterior window or curbside pickup of marijuana and marijuana products sold at retail before November 15, 2020, only if

(1) the marijuana or marijuana product offered for sale does not exceed the amounts set out under 3 AAC 306.355 and is packaged as required under 3 AAC 306.345;

(2) a holder of a marijuana handler permit completing the sale verifies the requirements of 3 AAC 306.350 are satisfied and that the purchaser is not under the influence as described under 3 AAC 306.310(a)(2);

(3) the licensee extends the video surveillance requirements of 3 AAC 306.720 to include the area designated for exterior window or curbside pickup;

(4) the licensee submits, as applicable, a request for an operating plan change in accordance with 3 AAC 306.703 or a request for licensed premises alteration in accordance with 3 AAC 306.705, for which fees shall be waived, and the director provides written approval of that change or alteration; and

(5) the licensee provides written assurance that the local government permits the change or alteration.

(c) A licensee that offers marijuana or marijuana products for exterior window or curbside pickup must consent to inspections of the areas designated for exterior window or curbside pickup, excluding private vehicles, at all reasonable times and in a reasonable manner by investigative personnel of the board or by other peace officers acting in their official capacity. Nothing in this section limits the existing powers of investigative personnel.

(d) For purposes of this section,

(1) "curbside pickup" means parking spots designated by a licensee for pickup of marijuana or marijuana products or an area immediately adjacent to an entrance to a licensee's business premises.

(2) "exterior window pickup" means a drive-through or sliding or opening window of a marijuana retail store from which marijuana or marijuana products may be purchased without consumers entering the licensed premises. (Eff. 4/17/2020, Register 234; am 8/23/20, Register 235)

Editor's note: Adoption of 3 AAC 306.995 took effect on April 17, 2020, as an emergency regulation, and was first published in Register 234 (July 2020). In reviewing the "permanent" regulations and "permanent" amendments in accordance with AS 44.62.060 and 44.62.125(b), the regulations attorney made technical changes to 3 AAC 306.995. The technical changes appeared in the "permanent" regulations as published in Register 235 (October 2020). The history note does not reflect the changes made by the regulations attorney to the emergency regulations of April 17, 2020.