DRAFT RECOMMENDATIONS TO THE MARIJUANA CONTROL BOARD	
Issue 1	**Inconsistency in potency results**
Factor 1	Differences in what the plant itself yields from one sample to another creates variability in results and an incomplete assessment of "potency" when only one small sample from a large harvest batch is tested.
Factor 2	Differences in labs' calculations for "Total THC" in concentrates-- One lab calculates by adding d9+(THCA*0.877) +d8THC + d10THC isomers and the other only adds d9+(THCA*0.877).
Factor 3	Differences in analytes tested from one lab to the other. One lab tests for d10THC and the other does not. It is difficult to adequately separate the isomers from each other and from CBC without an LCMS or GCMS.
Factor 4	Differences in methods of homogenization, processing, and analytical methods from one lab to another leaves room for concern that the answers would not be the same from laboratory to laboratory.
Factor 5	Sampling practices at the cultivations-- There is not effective training on sampling techniques
Impact 1	Inconsistent test results
Impact 2	Lack of consumer trust
Impact 3	Higher potency products when cultivators and manufacturers add delta 8 on top of the allowable delta 9 limits
Impact 4	
Impact 5	
Impact 6	
Recommendation 1 for solution	**Redefine "Total THC" to include d9+(THCA*0.877) +d8THC**
Recommendation 2 for solution	**To accommodate potentially greater TotalTHC increase potency levels for edibles to 12-15 mg per serving or 120 – 150 mg per product. Manufacturers can determine product TotalTHC content, but product only fails if it exceeds Total THC level per serving and product.**
Consideration, scientific limitations, and/or special provisions regarding Recommendations 1 and 2	Yes. There is difficulty separating out THC isomers from each other and from CBC.
Changes in laboratory methods required	Yes. New calculation.

regarding recommendation 1 and 2	
Changes in instrumentation required regarding recommendations 1 and 2	To be the most accurate, it would require different instruments.
Changes required in metrc regarding recommendations 1 and 2	Yes. There would have to be the addition of isomers in the results uploaded.
Regulatory changes required regarding Recommendations 1 and 2	Yes. Total THC would need to be redefined. So would edible limitations.
Impact 1 of implementing Recommendations 1 and 2	Customers would be informed that the product contains more psychoactive components
Impact 2 of implementing Recommendations 1 and 2	Fairness in the marketplace
Follow-up actions needed	Discuss with Board
Recommendation 3 for solution	**Labeling Recommendation: Include a range of test results for the specific cultivator on that specific strain. Take the last three samples and average them or label as a range from lowest to highest results.**
Consideration, scientific limitations, and/or special provisions	N/A

Changes in laboratory ethods required	N/A
Changes in instrumentation required	N/A
Changes required in metrc	Add the ability to track the past results for each strain by that cultivator to the METRC capabilities so that the retailers can pull the information and use it for their labeling.
Regulatory changes required	Yes. Change labeling requirements
Impact 1 of implementing Recommendation 3	Better assessment of potency of certain strains not determinable by one harvest/batch test
Impact 2 of implementing Recommendation 3	Potential to under measure difference in variability of harvests based on environmental factors
Impact 3 of implementing Recommendation 3	Fairness in the marketplace
Impact 4 of implementing Recommendation 3	This may resolve the ground flower testing
Recommendation 4 for solution	**AMCO to better utilize existing authority to test potency on a random basis (collect at cultivators, manufacturers, and retail stores)**
Consideration, scientific limitations, and/or special provisions	N/A
Changes in laboratory ethods required	N/A
Changes in instrumentation required	N/A

Changes required in metrc	N/A
Regulatory changes required	No.
Impact 1 of implementing Recommendation 4	Verifies licensee test results
Impact 2 of implementing Recommendation 4	Greater confidence in verified test results
Impact 3 of implementing Recommendation 4	Potential for actions against licensees for inflated results
Impact 4 of implementing Recommendation 4	Potential lack in confidence in AMCO for sampling and testing activities
Impact 5 of implementing Recommendation 4	Address whether AMCO may gather samples without compensating at least retail stores for samples gathered
Follow-up actions needed	Discuss with Board
Recommendation 5 for solution	**Create uniform standards for a representative sample from each harvest batch for laboratory samples and offer training on the same**
Consideration, scientific limitations, and/or special provisions	What are those standards? Confer with the Division of Agriculture for standards regarding hemp testing
Changes in laboratory ethods required	N/A
Changes in instrumentation required	N/A

Changes required in metrc	N/A
Regulatory changes required	Yes. Amend 3 AAC 306.455
Impact 1 of implementing Recommendation 4	Uniformity in sampling creates consistent test results across cultivators
Impact 2 of implementing Recommendation 4	Greater confidence in verified test results
Impact 3 of implementing Recommendation 4	Fairness in the marketplace
Follow-up actions needed	Discuss with Board

3 AAC 306
REGULATIONS FOR THE MARIJUANA CONTROL BOARD

Updated 3/22/2024

DISCLAIMER: The following copy of 3 AAC 306 reflects the edits made by the Department of Law and signed by the Lieutenant Governor. This is not an official copy of Chapter 306. An official copy of the regulations may be found on the Alaska Legislature's website or through the Lieutenant Governor's office.

First Goals of the Testing Group

- **Potency/cannabinoid concentration testing and related test processes for the same**
- **Identify ranges of results vs. a specific concentration percentage.**
- **Isomers to include in total THC testing (measure for psychoactiveness). Potential approaches and is it total THC or total reactive THC**
  - **Measure each isomer separately**
  - **Lump them together (Delta 1, 2, 3, 4, 6, 8, 9, 10, THCA, THCV)**
- **Once we decide on what to measure, decide how to measure/codify lab testing standards for the same**
- **Change the definition of THC**
- **Is there data to define the potencies of the different Isomers**
- **What else shall be measured than may be measured (e.g., CBD, CBN, also measure for the entourage effect)**
- **Labeling changes**
- **Standardize our definitions**
- **Address random sampling by AMCO**

Article 3

Retail Marijuana Stores

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

(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 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 [redefine] 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)

Article 4

Marijuana Cultivation Facilities

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;

(c) A licensed standard marijuana cultivation facility may not

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

3 AAC 306.445. Standards for cultivation and preparation

(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.

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 [Define?] 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

(Any restrictions on placement of kief to increase percentages?]

(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

Any requirements for this person?

(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. A marijuana cultivation facility may transfer untested marijuana to a licensed marijuana concentrate or standard marijuana product manufacturing facility to be used to make carbon dioxide- or solvent-based extract before receiving test results in writing. 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; am 4/16/2023, Register 246)

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.

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] **concentration** 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; [should this move to total cannabinoid concentration vs. a percentage of each cannabinoid listed]

(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)

Article 5

Marijuana Product Manufacturing Facilities

3 AAC 306.510. Acts prohibited at marijuana product manufacturing facility

(a) A licensed marijuana product manufacturing facility may not

(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 AAC 306.525. Approval of concentrates and marijuana products

(d) A licensed marijuana product manufacturing facility shall keep its ingredient list and [potency] **cannabinoid concentration** limits for any food-based concentrate or food product containing marijuana on file at the marijuana product manufacturing facility's licensed premises. The ingredient list and [potency] **concentration** 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; am 4/16/2023, Register 246)

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 [what is this] 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 [any requirements for this person]

(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.

3 AAC 306.560. Cannabinoid Concentration [Potency] limits per serving and transaction for edible marijuana products

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

(1) for a single serving of a marijuana product, not more than 10 milligrams of what [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 100 milligrams of active THC or Delta 9 [same]; the THC content must be homogenous, or evenly distributed throughout the marijuana-infused product. (Eff. 2/21/2016, Register 217; am 9/1/2021, Register 239)

3 AAC 306.565. Packaging of marijuana products

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

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

(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 **concentration** [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.

Article 6

Marijuana Testing Facilities

3 AAC 306.615. Application for marijuana testing facility license

An applicant for a new marijuana testing facility license must

(1) file an application on a form the board prescribes, including

(A) the information required under 3 AAC 306.020;

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

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

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

(iii) the acceptable range of results for each test the marijuana testing facility will offer, and

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 **concentration** [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.

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.

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 **cannabinoid concentration** [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) **cannabinoid concentration** [potency] testing is required on marijuana bud and flower, marijuana concentrate, and a marijuana product, as follows:

(A) the required cannabinoid **concentration** [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; [identified together or as a lump-sum active THC concentration]

(B) a marijuana testing facility shall report **concentration** [potency] test results as follows:

(i) for a **concentration** [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;[same question of separate or total active THC]

(ii) for a **concentration** [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 100 milligrams total THC package with 10 servings, each serving must contain between eight and 12 milligrams of THC;

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

(i) an individually packaged edible retail marijuana product with 10 servings that is contained within a test lot is determined to have more than 120 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; am 9/1/2021, Register 239)

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)

Article 7

Operating Requirements for All Marijuana Establishments

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 and overlapping premises described under 3 AAC 306.705(d) and 3 AAC 306.710(d), 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; am 12/10/2020, Register 236)

3 AAC 306.755. Business records

(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; am 12/10/2020, Register 236; am 1/22/2023, Register 245)

Article 8

Enforcement; Civil Penalties

3 AAC 306.801. Powers and duties

(a) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity may

(1) inspect, at a reasonable time and in a reasonable manner, the licensed premises of a marijuana establishment, including

(A) overlapping premises approved by the board under 3 AAC 306.705(d) and 3 AAC 306.710(d);

(B) marijuana and marijuana products;

(C) equipment used in cultivating, processing, testing, or storing marijuana, and

(D) the marijuana establishment's marijuana inventory tracking system, business records, and computers;

; and

(7) take any other action the director considers necessary to ensure the enforcement of AS 17.38 and this chapter.

(b) A marijuana establishment, 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 AS 17.38 or this chapter including to

(1) permit entry to and inspection of the licensed premises; and

(2) provide access to business records not later than 10 business days after a request by the director, an enforcement agent, an employee of the board, or a peace officer. (Eff. 7/23/2023, Register 247)

Article 9

General Provisions

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 **cannabinoid concentration** [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

(i) making decisions for the corporation without independent participation of other owners;

(ii) exercising day-to-day control over the corporation's affairs;

(iii) disregarding formal legal requirements;

(iv) using corporation funds for personal expenses or investments, or intermingling corporation finances with personal finances; or

(v) 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, including overlapping premises approved by the board under 3 AAC 306.705(d) and 3 AAC 306.710(d) or designated outdoor areas, at the specific location 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”

(A) has the meaning given in AS 18.35.301(i)(1);

(B) does not include a building that contains a tenant other than one or more licensed marijuana establishments owned by the same business, individual, or group of individuals that seeks an onsite consumption endorsement;

(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 may be consumed, excluding marijuana concentrates other than those consumed by vaping under 3 AAC 306.370(b)(3);

(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).

(49) “smoking” has the meaning given in AS 18.35.399;

(50) “vaping” means the action or practice of inhaling the aerosol produced by an electronic device that heats up and vaporizes a liquid or solid.

(51) “office” means the Alcohol and Marijuana Control Office. (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; am 12/10/2020, Register 236; am 8/7/2021, Register 239; am 7/23/2023, Register 247)