

February 4, 2019  
Supersedes December 21, 2018

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## Retesting and Remediation - Updated

A safety compliance facility may test or retest a sample to validate the results of a failed safety test in accordance with Rule 46 (R 333.246) of the Administrative Rules. A failed test sample must pass two separate retests, consecutively, to be eligible to proceed to sale or transfer. If both retests pass, the batch is out of quarantine and eligible for sale or transfer. If one or both retests fail, the marijuana product must be destroyed as provided by in the Administrative Rules. The marijuana facility that provided the sample is responsible for all costs involved in a retest.

A marijuana product is **prohibited** from being retested in all the following circumstances:

- The marijuana product is in a final package.
- A final test for chemical residue failed pursuant to the Administrative Rules. If the amount of chemical residue or chemical residue active ingredient found is not permissible by the department, the marijuana product is ineligible for retesting and the product **must** be destroyed.
- A final failed test for microbials on marijuana-infused product is ineligible for retesting and the product **must** be destroyed.

The department is publishing the following remediation protocol in accordance with Administrative Rule 46(4) (R 333.246) for use where retesting is permitted by the rules.

### Remediation Protocol

#### Usable Marijuana – flower, shake/trim from harvest

- If initial product testing fails for microbial testing (total yeast and mold, *E. coli* or *Salmonella*, etc.) or foreign matter testing (mold, pests, etc.), the package can be transferred – **requiring departmental approval** – to a processor for remediation. If the product with these failed tests are already at a processor, the processor can remediate the flower/shake/trim. The product will then need full compliance testing to prove contaminants have been removed, following the retesting requirements of Rule 46 (R 333.246).
- If initial product testing fails for foreign matter testing (mold, pests, etc.), a licensee can remove and destroy the parts of the plant material that are contaminated. This does not require departmental approval. The product must then be retested for foreign matter, following the retesting requirements of Rule 46 (R 333.246).

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- If initial product testing fails for metals, the package can be transferred – **requiring departmental approval of the transfer and remediation process** – to a processor for remediation. If the product with these failed tests are already at a processor, **the processor can remediate the flower/shake/trim with required departmental approval**. The product will then need full compliance testing to prove contaminants have been removed, following the retesting requirements of Rule 46 (R 333.246).
- If initial product testing fails for water activity, the product can be allowed to further dry and cure. This does not require departmental approval. The product must then be retested for water activity, following the retesting requirements of Rule 46 (R 333.246).

## **Concentrates/Extracts – testing prior to final packaging**

- If initial product testing fails for residual solvents, further extraction is permitted to burn off more of the solvent. This does not require departmental approval. The product must then be retested for residual solvents, following the retesting requirements of Rule 46 (R 333.246).
- If initial product testing of product fails for metals, **the processor can remediate the product with required departmental approval**. The product will then need full compliance testing to prove contaminants have been removed, following the retesting requirements of Rule 46 (R 333.246).

## **Edible & Non-Edible Marijuana-Infused Products – testing prior to final packaging**

- If initial product homogeneity testing fails, the product can be remixed. This does not require departmental approval. The product must then be retested for homogeneity, following the retesting requirements of Rule 46 (R 333.246).
- If initial product testing fails for potency, the processor may repackage into a smaller multi-pack (i.e. a 10 pack into a 5 pack). This does not require departmental approval. The product must then be retested for potency, following the retesting requirements of Rule 46 (R 333.246).
- If initial product testing fails for potency, the processor may melt the product and reform it into a smaller size or melt small pieces from broken product and add in non-marijuana ingredients and reform into the same item – chocolate bars for example. This does not require departmental approval. The product must then be retested for potency, following the retesting requirements of Rule 46 (R 333.246).

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To request the required departmental approval to remediate certain marijuana products, the licensee must submit a written request to [LARA-BMR-Enforcement@michigan.gov](mailto:LARA-BMR-Enforcement@michigan.gov). The subject line should state “request for remediation approval.” The email must include:

1. Facility name
2. License number
3. Package tag number
4. Product name and weight
5. Plan to remediate the product including the name and license number of the processor where the product will be sent for processing.

The licensee is not authorized to remediate product requiring departmental approval until written approval from the department is received.

To produce “live resin,” the grower must request departmental approval through the same procedure as outlined above.

*This technical bulletin does not constitute legal advice and is subject to change. It is intended to provide a technical clarification only to the Department of Licensing and Regulatory Affairs’ Administrative Rules. Licensees are encouraged to seek legal counsel to ensure their operations comply with the Medical Marijuana Facilities Licensing Act and associated Administrative Rules.*

A complete copy of the Administrative Rules can be found [here](#).  
More information on the BMR can be found at the bureau’s website:  
[www.michigan.gov/bmr](http://www.michigan.gov/bmr).

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