



Issue Date: 02/25/2021
Date Updated:07/20/2021

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For more information about the Marijuana Regulatory Agency, please visit www.michigan.gov/MRA.

Questions can be sent to Marijuana Regulatory Agency via email at MRA-Legal@Michigan.gov.



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## Potency

What does the potency listed on the label mean?

Potency means the concentration of the active ingredient in a product, typically Delta 9 THC and CBD.

Can the potency of products purchased be different than what the label states?

Under R 420.504(1)(g), a product that is sold to a customer is required to have the following information on the label: *Concentration of tetrahydrocannabinol (THC) and cannabidiol (CBD) as reported by the laboratory after potency testing along with a statement that the actual value may vary from the reported value by 10%.*

The actual concentration of THC and CBD can vary from the reported value by 10%. This is the normal variance allowable in products and is sometimes regarded as the margin of error for test results.

Example:

On a label which states a product contains 50mg delta-9 THC, it is reasonable that the normal variance of the product is allowed to be +/- 5mgs. This means that the THC concentration could be as low as 45mgs or as high as 55mgs.

If a THC concentration is listed at 35mgs, a variation of 3.5mgs in either direction is possible. This would mean that the THC concentration could be as low as 31.5mgs or as high as 38.5mgs.

To calculate the potential variance, take the concentration listed (for example 50mg) and multiply it by 0.1 (0.1 is 10%). Example:  $50 \times 0.1 = 5\%$ . That will give a 10% variance amount. To find out the variance range, subtract the variance amount from the listed concentration. Subtracting the variance amount will provide the lower variance ( $50\text{mg} - 5\text{mg} = 45\text{mg}$ ) and adding the variance amount will provide the upper variance ( $50\text{mg} + 5\text{mg} = 55\text{mg}$ ). This will provide a range for the product of 55-45mgs.

## Labeling

What does the MRA consider false or misleading labels?

Administrative Rule R 420.507(2) states in pertinent part: *A person shall not make any deceptive, false, or misleading assertions or statements on any marijuana product, sign, or document provided.*

Assertions or statements on a marijuana product includes any information on the product packaging and/or tags/stickers affixed to the product. There cannot be any statements on a product that would mislead a consumer, such as nutritional or health related statements that are

not substantiated. All information and statements on products must be true and accurate. Producers who use pre-made packaging provided by a brand whose products they make should ensure that information on the pre-made packaging does not contradict any information the producer affixes to the package after production.

Under R 420.507(5), a person receiving reasonable payment under a licensing agreement or contract approved by the agency concerning the licensing of intellectual property, including, but not limited to, brands and recipes, is responsible for any marketing or advertising undertaken by either party to the agreement. If a licensee is producing products under a licensing agreement and using pre-made product packaging, it is the licensee's responsibility to ensure that the packaging and all affixed tags/stickers are compliant with the administrative rules.

## METRC

### As a licensee, am I allowed to use all the functions I see in METRC?

METRC is a nationwide program that is being used by the State of Michigan and contains functionality and information that may not be compliant with our statutes and rules. Existence of a METRC function does not authorize its use and may result in disciplinary proceedings. METRC is a housing system for your marijuana business information. METRC will not ensure compliance with our statutes and rules. It is the licensee(s) responsibility to ensure compliance with all statutes, rules, and bulletins.

Examples:

- METRC has a "return to sender" function. Licensees under the Medical Marijuana Facilities Licensing Act are not authorized to return product to a sender.
- METRC will allow a licensee to sell a product that is on administrative hold. Under the Administrative Rules, a product that is on administrative hold is not allowed to be sold or transferred.
- METRC will not prevent a licensee from entering an unauthorized license number/type for transferring product, e.g., an adult-use grower inputting a medical marijuana secured transporter for transport.

### As a licensee, am I responsible if something goes wrong with my third-party integrator point-of-sale system (POS)?

If a licensee chooses to use a POS, it is the licensee's responsibility to ensure that all data is reflected accurately in METRC. A licensee should ensure that its POS is communicating with METRC and data is transferred appropriately. Under the statutes and administrative rules, the accuracy of data in METRC is required, not the accuracy of the data from the POS. The licensee is responsible for ensuring the data in METRC is accurate.

Example

If a licensee's POS system is not batching appropriately (e.g., daily or in real time) and its METRC inventory is not tracking accurately, the licensee may be subject to disciplinary

proceedings if the licensee fails to identify the errors and make the appropriate corrections in METRC.

## Alcohol and Food at Temporary Marijuana Events (TME) or Designated Consumption Establishments (DCE)

Are licensees allowed to have alcohol use/sales at either a Designated Consumption Establishment (DCE) or Temporary Marijuana Event (TME)? Is a licensed DCE or TME allowed to have food consumption or serving of food in the same space as a DCE or TME?

The sale and/serving of alcohol is regulated by the Michigan Liquor Control Commission (MLCC). You can contact MLCC at [LARA-MLCC-Licensing-Information@michigan.gov](mailto:LARA-MLCC-Licensing-Information@michigan.gov) or 866-813-0011 (Toll-Free) or 517-284-6250.

A licensed DCE or TME may serve food and/or have food consumed on the premises or during an event if they receive authorization from the applicable municipal and state regulators of food; see [Rule 420.203\(2\)\(b\)\(i\)](#).

Additionally, food should be stored and served in a designated space that is separate from marijuana or marijuana products to prevent cross-contamination.

The MRA will investigate the unauthorized consumption of food/ serving of food on the premises of the licensed DCE/TME.

## Video Surveillance

Do licensees have to preserve video surveillance recordings when requested for investigations?

Requests for licensees to preserve video surveillance are routine and are part of the inspection/investigation process. A properly functioning surveillance system and the ability to preserve and produce surveillance recordings allows for proper oversight of regulated product and businesses, and helps to ensure the safety of licensees, the licensee's employees, and the general public.

Licensees must comply with all requests from the MRA regarding the preservation and production of video surveillance recordings. If the video surveillance recordings are requested to be provided immediately by the MRA, the licensees must immediately provide the surveillance recordings as requested by the RO (Regulation Officer)/RA (Regulation Agent). If the RO/RA agrees that the licensees will produce the recording(s) by a specified date and time, other than immediately, the licensee is required to provide the recording(s) by the deadline agreed upon. Licensees' failure to comply with the deadline may result in disciplinary action. See rule [R 420.209 \(11\) & \(12\)](#).

Licensees must ensure their surveillance equipment is working properly on a regular basis. A complete self-audit of equipment and recordings is encouraged. Licensees should also ensure that the video surveillance log is up to date, accurate, and includes the name of the individual responsible for monitoring the video surveillance system.

The MRA recommends licensees have an individual available on-site that has been properly trained in operating the video surveillance system so that licensees can comply with all requests

for the preservation and production of video surveillance. An inability to comply with requests for video recordings will subject licensees to disciplinary proceedings.

The agency will continue to request video surveillance recordings and may request that licensees maintain video surveillance recordings past the 30 days required. Licensees should have the proper storage devices to provide to the agency on hand and should maintain copies of requested surveillance footage.

#### What if a licensee(s) video surveillance goes down due to power loss?

If a video surveillance system fails due to a power outage and there is no backup system in place, the MRA recommends the licensee discontinue sales, close the business until video surveillance is functioning properly, and notify the MRA at [MRA-Enforcement@michigan.gov](mailto:MRA-Enforcement@michigan.gov) as soon as possible.

A licensee who operates without the required video surveillance coverage will be subject to disciplinary action. See rule [R 420.209 \(6\) \(a\) \(i\) \(ii\) \(iii\) \(iv\) \(v\) \(vi\) \(vii\)](#) and [R 420.209 \(13\)](#)