**Labeling of Total Active THC for Ingestible/Edible Cannabis Products Guidance**

This guidance reiterates how licensees must apply the permitted potency variance under N.J.A.C. 17:30-11.5(d)(3)(i) when determining the total active THC amount printed on the label of ingestible cannabis products.

**DISCLAIMER:** The purpose of this Guidance is to restate the existing legal requirements under the governing law. This Guidance does not impose any additional requirements that are not included in the law and does not establish additional rights for any person or entity.

N.J.A.C. 17:30-11.5(d)(2) states that "[f]or ingestible products, each package of finished cannabis product shall contain no more than 100 mg of active THC." Further, N.J.A.C. 17:30-11.5(d)(3) states that "[e]ach single serving of a cannabis product shall contain no more than 10 mg of active THC**,** or the equivalent weight, as best determined based on THC potency, dependent on form." Separately, N.J.A.C. 17:30-11.5(d)(3)(i) recognizes that laboratory testing may fall within a range of 90% to 110% of the specified milligram serving size claimed for that product, reflecting the inherent limitation of representative sampling used in potency testing.

Because laboratory testing is conducted on a representative sample of a batch rather than every individual unit, a Certificate of Analysis (COA) result above 100mg does not confirm that the entire batch, or any specific package, actually contains more than 100mg of active THC. It reflects a testing estimate with an accepted margin of variability, not a certified excess amount.

Representative sampling in conjunction with uniformity testing ensures that the results represent a potency level that is reflective of the entire batch and that the manufacturing process is producing individual products of similar potency within each package. The results on the COA produce an estimate for the batch rather than a precise measurement of every package. The 90-110% variance in N.J.A.C. 17:30-11.5(d)(3)(i) exists to account for this inherent testing limitation, not to establish a basis for labeling claims above the 100mg per package cap.

Accordingly, when laboratory COA results for a batch fall within the 90–110% variance range (e.g. 90mg to 110mg of total active THC):

- Licensees may not print a total active THC value on the label that exceeds 100mg per package, even where the underlying COA result is within the permitted variance, because the testing methodology cannot confirm that the specific package actually contains more than 100mg of total active THC.
- Labeling a value above 100mg of total active THC based on a sample result is considered non-compliant labeling which may result in enforcement action because it would overstate

potency to consumers with a degree of certainty the testing does not support and could cause consumers to believe they are receiving more active THC than can be verified.

- This requirement applies to any package where the underlying representative sample falls anywhere within the 90-110% variance range.

Licensees with questions about this guidance should contact their assigned compliance officer.