



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

RACHAEL EUBANKS
STATE TREASURER

February 12, 2026

[REDACTED]
[REDACTED]
[REDACTED]

Sent via email: greenindustryassociation@gmail.com

Jack,

This notice responds to your February 1, 2026, email appealing the Department of Treasury's (Treasury) partial denial of your January 23, 2026, request for information under the Freedom of Information Act (FOIA) MCL 15.231 et seq.

As stated in your original request, you are seeking:

- 1) *A copy of the data used to contend that the Michigan average wholesale price of Cannabis is 50% of the retail price divided by 1.5.*
- 2) *The documents and sources utilized to legally define marijuana product categories (e.g., Flower, Shake/Trim, Concentrate, Inhalable Compound Concentrate, Vape Cartridge, Kief, Infused Edible, Infused Non-Edible Solid, Infused Liquid, Infused Non-Edible Liquid, Trade Samples, Solid, and Trade Samples, Liquid) used by The Michigan Department of Treasury for tax administration purposes.*

Pursuant to section 10(1)(a) of the FOIA, MCL 15.240(1)(a), you have appealed Treasury's denial, stating as follows:

I respectfully submit this administrative appeal of the Department of Treasury's response to my Freedom of Information Act request dated January 23, 2026.

Treasury's response states that my request was "granted in part and denied in part," but it does not identify which portion of the request was denied, nor does it specify whether any responsive records exist that were withheld. Treasury also certified that "no other records exist," but it is not clear if that is in reference to the requested data, or product category definitions, and creates ambiguity as to the basis for the partial denial.

By way of clarification, my request sought:

1. *The data used to support Treasury's position that the Michigan average wholesale price of cannabis is the retail price divided by 1.5, based on an assumed 50% markup, and*
2. *The documents and sources utilized to legally define the marijuana product categories used by the Treasury for tax administration purposes.*

Treasury's Adult-Use Marijuana Average Wholesale Price bulletin states that:

"For all product categories, including trade samples, it is the wholesale entity's responsibility to maintain adequate books and records demonstrating that all transactions have been recorded in the proper product category."

In order for a wholesale entity to meet that stated responsibility, the legal definitions or authoritative criteria for the "proper product category" must be knowable and ascertainable. Accordingly, my request sought records reflecting how Treasury defines, determines, or otherwise establishes those product categories for tax administration purposes. On appeal, I respectfully request that Treasury clarify:

1. *Which specific portion(s) of my FOIA request the Treasury contends were denied.*
2. *Whether Treasury maintains any records that define, describe, or establish the product categories referenced in its AWP bulletin and required for compliance with Treasury's recordkeeping expectations.*
3. *Whether the raw data used to assume a 50% markup recorded but denied, or clarity that the raw data is not on record, including the data used to generate the cited Cannabis Benchmarks reports.*

If the Treasury maintains no such records, I respectfully request that the response be clarified to reflect that no responsive records exist, rather than a partial denial. If responsive records do exist, please identify the applicable FOIA exemption(s) relied upon for any withholding.

This appeal is submitted in the interest of obtaining a clear and accurate FOIA determination and to ensure that Treasury's response can be reasonably relied upon.

Treasury responds to the requested clarifications as follows:

1. Treasury did not deny any portion of the request based on a FOIA exemption. The portion characterized as denied reflects that no additional responsive public records exist within Treasury beyond those identified in the original response.
2. Treasury does not maintain internal documents that legally define the marijuana product categories beyond what is set forth in applicable statutes, administrative rules, and publicly available guidance issued by the Michigan Cannabis Regulatory Agency

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3. Treasury does not maintain internal datasets, raw data, or independent analyses establishing a 50 percent retail markup. The links provided in Treasury's original response reflect publicly available records referenced by Treasury. No additional responsive public records exist within Treasury for this portion of the request.

This response constitutes Treasury's final determination on appeal.

Under section 10 of the FOIA, MCL 15.240, Treasury is obligated to inform the requester that if you disagree with Treasury's denial determination, you may commence a civil action in the Court of Claims within 180 days after the date of the final determination to deny the request. If the requester prevails in such an action, the court is to award reasonable attorney fees, where applicable, costs, and disbursements, and possible fines and damages.

Treasury's FOIA procedures and guidelines can be accessed at: [Michigan Department of Treasury Freedom of Information Act Procedures and Guidelines](#).

Sincerely,

A handwritten signature in blue ink that reads "Danelle R. Gittus". The signature is written in a cursive style with a large initial "D".

Danelle Gittus
Director of Communications