



Washington State Liquor and Cannabis Board

Collaborative Rulemaking Discussion Vendor and Educational Samples WAC 314-55-096

Cassidy West, *Policy and Rules Manager*
Washington State Liquor and Cannabis Board
1025 Union Avenue
Olympia WA 98502

October 6, 2023
October 11, 2023



Washington State Liquor and Cannabis Board

Meeting Goal: To engage in a collaborative discussion with stakeholders about a new proposed regulatory framework for vendor and educational samples.



Trade Samples

New Proposed Regulatory Framework: Combine vendor and educational samples into one category – “Trade Samples”

“Trade sample” means a limited, specified amount of cannabis or cannabis products at no charge that has been designated by the licensee to be provided to another licensee for the purpose of either:

(i) Negotiating the sale on a product a licensee does not already carry;

(ii) Establish a new business relationship; or

(iii) To educate employees at a retail outlet about products the retailer currently carries.



Representative Samples

- Allow samples to be representative of products that will be sold to other licensees or to customers at a retail outlet.
 - Samples must be tracked as inventory in the traceability system and designated as a “trade sample” when removed from inventory.
 - Invoice and manifest must accompany sample when transferred from one licensee to another licensee.
 - Special sample units with their own SKUs no longer required.
 - Samples may be furnished only in their original packages or containers as produced by the licensee.
 - Additional sticker required on outer package that states, “**Trade Sample – Not for Resale.**”
 - Font 1/8th inch
 - **Bold** text
 - May not obscure any labeling information required by [WAC 314-55-105](#).
 - **Regulatory Trade-off** - Is adding a single sticker to the outer packaging of cannabis product inventory that will be provided as samples more or less burdensome than creating individual sample units that are not representative of products and that are required to have a separate SKU as currently required?



Employee Samples

- (1)(a) ~~Vendor~~ **Trade** samples may only be given to and used by licensees or employees of licensees who have product ordering authority or employees who provide input on product to licensees or employees of licensees who have purchasing authority to inform purchasing decisions as detailed in a written business policy.
- **New proposed language:** *"Trade samples may only be given to and used by licensees or employees of licensees as detailed in a written business policy."*



Washington State Liquor and Cannabis Board

Sample limits – Useable Cannabis and Pre-rolls (*End product*)

- **14g per harvest**, as defined in [WAC 314-55-010](#):
 - A producer may provide each processor licensee 14g per harvest.
 - A processor may receive 14g per harvest from each producer licensee.
 - A processor may provide each retailer 14g per harvest.
 - A retailer may receive 14g per harvest from each processor licensee.
- Employee Sample Limit - **1g per harvest**
- [WAC 314-55-010\(14\)](#) "**Harvest**" means the cannabis plant material derived from plants of the same strain that were cultivated at the same licensed location and gathered at the same time.
- [WAC 314-55-010\(11\)](#) "**End product**" means a cannabis product that requires no further processing prior to retail sale.
- [WAC 314-55-010\(ww\)](#) "**Useable cannabis**" means dried cannabis flowers. The term 33 "useable cannabis" does not include either cannabis-infused products 34 or cannabis concentrates.



Washington State Liquor and Cannabis Board

Sample limits – Cannabis for Extraction (*Intermediate product*)

- **Flower** - 5 lb. per harvest, as defined in [WAC 314-55-010](#).
 - A producer may provide each processor 5 lbs. of cannabis flower per harvest.
 - A processor may receive 5 lbs. of cannabis flower per harvest from each producer licensee.
- **Trim/shake** – 10 lbs. per harvest.
 - A producer may provide each processor 10 lbs. of cannabis trim/shake per harvest.
 - A processor may receive 10 lbs. of cannabis trim/shake per harvest from each producer licensee.
- **Fresh frozen** – 20 lbs. per harvest.
 - A producer may provide each processor 20 lbs. of fresh frozen per harvest.
 - A processor may receive 20 lbs. per harvest of fresh frozen cannabis per harvest from each producer licensee.
- [WAC 314-55-010\(14\)](#) "**Harvest**" means the cannabis plant material derived from plants of the same strain that were cultivated at the same licensed location and gathered at the same time.
- [WAC 314-55-010 \(16\)](#) "**Intermediate product**" means cannabis flower lots or other material lots that have been converted by a cannabis processor to a cannabis mix lot, cannabis concentrate or cannabis-infused product that must be or are intended to be converted further to an end product.



Washington State Liquor and Cannabis Board

Sample Limits – Cannabis Concentrates (*End product*)

- **7g per batch**, as defined in [WAC 314-55-102\(4\)\(c\)\(ii\)](#).
 - A retailer may receive 7g of cannabis concentrate (e.g., distillate or rosin) per batch from each processor licensee.
 - A processor may provide each retailer licensee 3.5g of cannabis concentrate per batch.
 - Employee sample limit – **1g per batch**
- **7 units per batch** – No unit may exceed 1g.
 - A retailer may receive 7 units of cannabis concentrate (e.g., vape cartridge or syringe) per batch from each processor.
 - A processor may provide each retailer 7 units per batch of cannabis concentrate.
 - Employee sample limit – **1 unit per batch**
- [WAC 314-55-102\(4\)\(c\)\(ii\)](#) For the purposes of this section, a **batch** is defined as a single run through the extraction or infusion process;
- [WAC 314-55-010\(11\)](#) "**End product**" means a cannabis product that requires no further processing prior to retail sale.
- [RCW 69.50.101 \(e\)\[\(5\)\]](#) "**Cannabis concentrates**" means products consisting wholly or in part of the resin extracted from any part of the plant Cannabis and having a THC concentration greater than ten percent.



Washington State Liquor and Cannabis Board

Sample Limits – Cannabis Concentrates for further processing (*Intermediate product*)

- g per batch as defined in [WAC 314-55-102\(4\)\(c\)\(ii\)](#).
- **New allowance** – Processor to processor sampling to negotiate a sale or establish a new business relationship.
 - Besides cannabis concentrates, what are some other product categories (e.g., cannabis-infused products) that processors should be able to provide to other processors as samples?
 - What is the minimum of samples that would be required for each category of cannabis product for sampling to be effective?
- [WAC 314-55-010 \(16\)](#) "**Intermediate product**" means cannabis flower lots or other material lots that have been converted by a cannabis processor to a cannabis mix lot, cannabis concentrate or cannabis-infused product that must be or are intended to be converted further to an end product.
- [WAC 314-55-102\(4\)\(c\)\(ii\)](#) For the purposes of this section, a **batch** is defined as a single run through the extraction or infusion process;
- [RCW 69.50.101 \(e\)\[\(5\)\]](#) "**Cannabis concentrates**" means products consisting wholly or in part of the resin extracted from any part of the plant Cannabis and having a THC concentration greater than ten percent.



Washington State Liquor and Cannabis Board

Sample Limits – Solid and Liquid Edibles (*End product*)

- **7 units per batch**, as defined in [WAC 314-55-010](#).
- [WAC 314-55-010\(2\)](#) "**Batch**" means a quantity of cannabis-infused product containing material from one or more lots of cannabis.
- [WAC 314-55-010\(11\)](#) "**End product**" means a cannabis product that requires no further processing prior to retail sale.
- [RCW 60.50.101\(k\)](#) "**Cannabis-infused products**" means products that contain cannabis or cannabis extracts, are intended for human use, are derived from cannabis as defined in subsection (d) of this section and have a THC concentration no greater than ten percent. The term "cannabis-infused products" does not include either useable cannabis or cannabis concentrates.
- [RCW 69.50.101\(zz\)](#) "**Unit**" means an individual consumable item within a package of one or more consumable items in solid, liquid, gas, or any form intended for human consumption.
 - New definition of "unit" effective July 24, 2023, pursuant to Engrossed Second Substitute Senate Bill (E2SSB) 5367 concerning the regulation of products containing THC ([chapter 365, Laws of 2023](#)).



Washington State Liquor and Cannabis Board

Sample Limits – Topicals

(End product)

- oz. per batch or units per batch of cannabis-infused product intended for topical application.
- [WAC 314-55-010\(2\)](#) "**Batch**" means a quantity of cannabis-infused product containing material from one or more lots of cannabis.
- [WAC 314-55-010\(11\)](#) "**End product**" means a cannabis product that requires no further processing prior to retail sale.
- [RCW 60.50.101\(k\)](#) "**Cannabis-infused products**" means products that contain cannabis or cannabis extracts, are intended for human use, are derived from cannabis as defined in subsection (d) of this section and have a THC concentration no greater than ten percent. The term "cannabis-infused products" does not include either useable cannabis or cannabis concentrates.



Washington State Liquor and Cannabis Board

Sample limits – Aggregate Amounts (per licensee)

Instead of limiting the number of allowable samples per new product (i.e., harvest or batch, as applicable), should samples be limited based on an aggregate amount that may be received from a producer or processor within a specified time (e.g., calendar month or quarterly)?

- Dried cannabis **flower** (*End product*) - **28g (1oz.) per month or 4oz. per quarter** from each licensee.
- Dried cannabis **trim/shake** (*Intermediate product*) – **2oz. per month or 8oz. per quarter** from each licensee.
- **Fresh frozen** cannabis (*Intermediate product*) – **5lbs. per month or 20lbs. per quarter** from each licensee.
- Cannabis **concentrates** (*End product*) – **14g or 14 (1g)units per month or 56g or 56 (1g units) per quarter** from each licensee.
- Cannabis **concentrates** (*Intermediate product*) – **_____g per month or _____g per quarter** from each licensee.
- Cannabis-infused products (**Solid or Liquid Edibles** – *End product*) – **14 units per month or 56 units per quarter** from each licensee.
- Cannabis-infused products (**Topicals** – *End product*) – **_____oz. or _____units per month** from each licensee.



Washington State Liquor and Cannabis Board

Sample Limits – Aggregate Amounts

(per specified time frame – month or quarter)

A licensee may receive the following aggregate amounts of trade samples per month or per quarter from all licensees:

- Dried cannabis **flower** (*End product*) – **2lbs. per month or 8lbs. per quarter.**
- Dried cannabis **trim/shake** (*Intermediate product*) – **4lbs. per month or 16oz. per quarter.**
- **Fresh frozen** cannabis (*Intermediate product*) – **20lbs. per month or 80lbs. per quarter.**
- Cannabis **concentrates** (*End product*) – **2oz. (56g) or 56 (1g)units per month or 224g or 224 (1g units) per quarter.**
- Cannabis **concentrates** (*Intermediate product*) – **_____g per month or _____g per quarter** from each licensee.
- Cannabis-infused products (**Solid or Liquid Edibles** – *End product*) – **56 units per month or 224 units per quarter.**
- Cannabis-infused products (**Topicals** – *End product*) – **_____oz. or _____units per month.**



Regulatory Trade-offs

As a trade-off for additional flexibility, allowances, and increased sample limits, what are some new requirements that may be considered?

- **Record-keeping** may include:
 - Invoice, manifest, and other accounting documents that provide adequate traceability for samples provided to and received by licensees and employees of licensees;
 - Employee training documents;
 - Sample feedback forms;
 - Written business policy; and
 - Quarterly reports.
- **Quarterly report** provided to LCB that may include:
 - (a) All of the samples provided to other licensees and employees or licensees that includes identification of licensee by business name and license number; (b) identification of employees of licensees to which samples are provided; (c) product brand; (d) unique identifier assigned to sample (SKU or batch number); (e) date samples were provided; (f) quantity of samples provided (net weight or number of sample units); and (g) reason for sample (negotiate a sale, establish a new business relationship, or educate employees/targeted marketing).



Employee Samples

- Trade samples may be provided to employees for educational purposes or targeted advertising (i.e., to promote sales of product).
- Cannabis and cannabis products provided to employees as trade samples must be properly recorded in the track and trace system. The transaction shall be recorded as a package adjustment when provided to the employee. The adjustment note must include the name or licensee-assigned employee number of the employee and the date and time the cannabis and cannabis products were provided to the employee.
- Cannabis and cannabis products provided to employees as trade samples shall not be sold, given away, or otherwise transferred by the employee to any person.
- Transportation of trade samples must be conducted in accordance with rules.



Washington State Liquor and Cannabis Board

Regulatory Trade-offs Continued ...

- **Training for employees** that may include:
 - Characteristics of the cannabis products (cultivar, effects, flavor, smell, etc.);
 - Methods of/directions for handling, storing, and presenting cannabis products to customers at retail outlet;
 - Information about the cannabis product (how it is grown/produced and ingredients) that may be helpful in determining whether a licensee or customer should purchase the product; and
 - Potential health and safety risks, including:
 - (a) Risks associated with excessive consumption; (b) delayed onset of edibles and differences in potency of smokable or inhalable cannabis products versus ingestible products (e.g., 11-hydroxy THC is stronger/more potent than THC); (c) risks associated with mixing prescription medicines or alcohol; and (d) dangers associated with driving or operating heavy machinery while intoxicated.
 - Criminal penalties associated with diversion of samples to a licensee, employee, or other person for which the sample was not intended.
- What are some other training topics to consider?
- Training for employee sampling may be included as part of any training employees receive during onboarding.
- Training records:
 - Trainer and trainee must include name of licensees and employees that provided and received training, date training is provided, and signature attesting all required topics were covered; and that the trainee understands all information provided by the training and understands responsibilities associated with sampling activities.
 - Training curriculum (topics covered in training)



Regulatory Trade-offs Continued ...

- **Written business policy** for sampling may include:
 - Policies and procedures for providing samples to other licensees and employees of licensees;
 - Policies and procedures for licensees and employees of licensees receiving samples; and
 - Policies and procedures related to employee training that may be required for employees to participate in trade sampling activities.
- Per [WAC 314-55-096\(1\)\(a\)](#), licensees should already have a written business policy that details licensees and employees of licensees who have product ordering authority or employees who provide input on product to licensees or employees of licensees who have purchasing authority to inform purchasing decisions.



Transitioning to a new framework

- What happens to existing sample units when the new framework goes into effect? (i.e., 'give-away' period)
- How long should the 'give-away' period last?



Additional Requirements

- Samples cannot be consumed on the licensed premises of a producer, processor, or retail outlet.
- Samples cannot be provided to consumers.
- Should samples of seeds, immature plants, or flowering plants that are being cultivated be allowed or prohibited?
 - If allowed, cannabis derived from seeds, clones, or propagated material from trade samples may not be sold, given away, or distributed to another licensee or employee of another licensee.
- Samples not consumed must be destroyed and documented as waste in accordance with the rules.



Additional Requirements Continued ...

- Samples cannot be provided for any payment or consideration in contravention of sales and excise tax requirements.
- Samples cannot be provided as employee compensation or as a sales incentive.
- What else?



Alcohol Samples

- [WAC 314-64-08001 Procedures for providing spirit samples to authorized retail licensees and their employees for the purpose of product promotion.](#)
 - 1 sample (750 ml) may be provided to each licensee.
 - Samples may only be provided on products that have not been purchased by the retail licensee within 12 months from the distiller or their agent or existing products with a change in alcohol proof or formula may be sampled.
 - Invoice required for each sample provided to another licensee.
 - Samples must be traceable as inventory.



Alcohol Samples

- [WAC 314-64-080 Procedures](#). Procedures for furnishing samples of beer and wine for the purpose of negotiating a sale.
 - Samples may only be provided in original packaging or containers as produced by the manufacturer or bottler.
 - Samples may be provided to retailer who has not previously purchased the brand and type or vintage year from the supplier furnishing the sample.
 - 72-ounce samples of any brand and type of beer.
 - One liter of any brand and type of wine.
 - Sample containers, cartons, and shipping documents must be identified as “**Samples for licensees.**”



Alcohol Samples

- [WAC 314-64-090 Accounting.](#)
 - Complete records of the disposition of samples must be maintained at the place of business.
 - Records must show (a) the name and address of the licensee from whom the samples were furnished; (b) the brand name and type; (c) quantities furnished to each licensee; and (d) date samples were provided.
 - Records must be maintained for two years and must be available during business hours for inspection and copying by members of the board or their accredited representatives.



Alcohol Samples

- [RCW 66.28.040 Giving away of liquor prohibited—Exceptions.](#)
 - Samples may be provided for negotiating a sale or for instructional purposes.
- [RCW 66.28.150 Breweries, microbreweries, wineries, distilleries, distributors, certificate of approval holders, and agents authorized to conduct courses of instruction on beer and wine.](#)
 - Instruction or education may be provided to licensees and their employees about beer, wine, or spiritous liquor, including, but not limited to the history, nature, values, and characteristics of the alcohol, the use of wine list, and the methods of presenting, serving, storing and handling alcohol, and what wines go well with different types of food.



Washington State Liquor and Cannabis Board

Thank You!