



## Washington State Liquor and Cannabis Board

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**Date:** October 30, 2019

**To:** Jane Rushford, Board Chair  
Ollie Garrett, Board Member  
Russ Hauge, Board Member

**From:** Kathy Hoffman, Policy and Rules Coordinator

**Copy:** Rick Garza, Agency Director  
Megan Duffy, Deputy Director  
Justin Nordhorn, Chief of Enforcement  
Becky Smith, Licensing Director

**Subject:** **Approval for filing proposed rules (CR 102) regarding WAC 314-55-105 – Packaging and labeling requirements; and WAC 314-55-077(8) and (9) – Marijuana processor license – Privileges, requirements and fees.**

The Rules Coordinator requests approval to file a rule proposal (CR 102) for the rule making described in the Issue Paper attached to this order and presented at the Board meeting on October 30, 2019.

If approved for filing, the tentative timeline for this rule proposal is as follows:

October 30, 2019	Board is asked to approve filing the proposed rules (CR 102 filing).
November 20, 2019	Code Reviser publishes notice, LCB sends notice to rules distribution list.
December 11, 2019	Public hearing held.
December 11, 2019	End of written comment period.
December 18, 2019	Board is asked to adopt rules.
December 18, 2019	Agency sends notice to those who commented both at the public hearing and in writing.
December 18, 2019	Agency files adopted rules with the Code Reviser (CR 103)
January 1, 2020	Rules are effective consistent with RCW 34.05.380(3)(a), the rule is effective on a date required by state law (see ESSB 5298).

_____ Approve	_____ Disapprove	_____ Jane Rushford, Chair	_____ Date
_____ Approve	_____ Disapprove	_____ Ollie Garrett, Board Member	_____ Date
_____ Approve	_____ Disapprove	_____ Russ Hauge, Board Member	_____ Date

Attachment: Issue Paper



## **Issue Paper**

### **Regarding WAC 314-55-105 – Packaging and labeling requirements; and WAC 314-55-077(8) and (9) – Marijuana processor license – Privileges, requirements and fees.**

Date: October 30, 2019  
Presented by: Kathy Hoffman, Policy and Rules Coordinator

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#### **Description of the Issue**

Washington State marijuana packaging and labeling regulations have evolved since their initial promulgation in 2013. Originally designed to provide a basic framework, requirements included, but were not limited to what products must be packaged in child-resistant containers, what warning language needed to be on accompanying material, and what traceability information needed to be on every product label. Over time, rules related to packaging and labeling of marijuana products have been revised in response to legislation and industry growth. Other factors, such as the use of biodegradable packaging, and reduction of the market's environmental impacts suggest that additional options to support industry sustainability should be explored.

However, protecting children and youth from accidental exposure to marijuana products continues to be a priority shared by the industry, the prevention community, the Board and many others. Assuring that marijuana product packaging is designed and constructed to be significantly difficult for children and youth to open, and requiring labeling that clearly communicates the adult nature of the product also continue to be shared priorities. As the industry has grown and evolved, so has the need for the Board to consider refining regulations around the packaging and labeling of these products.

This proposal reflects the outcome of an inclusive and engaged rule development process occurring from August to October of 2019 that was designed to balance several competing interests. Those interests include, but are not limited to:

- Assuring that marijuana products are not appealing or marketed to persons under twenty-one years of age;
- Offering a more concise, yet flexible framework to provide licensees the ability to engage in product development, design and marketing that will support business growth. At the same time, the Board is interested in sustainable business practices that will reduce industry waste and environmental impact, while maintaining an emphasis on public safety

- and the reduction of potential for accidental exposure to marijuana products;
- Assuring that required product warnings are aligned by product type;
- To the extent possible in rule, providing guidance for the provision of structure and function claims that are anticipated to increase consumer product knowledge; and
- To the extent possible in rule, providing clarity regarding what types of labeling designs and packaging characteristics should be avoided to reduce the possibility of unintended, accidental exposure to marijuana products.

The nexus and balance of these interests are demonstrated through this proposal.

Further, Engrossed Substitute Senate Bill (ESSB) 5298 (Chapter 393, Laws of 2019) involving marijuana product labeling will become effective January 1, 2020. Among other revisions, ESSB 5298, amended RCW 69.50.345, RCW 69.50.346, and created a new section describing the legislature's intent to allow additional information on the labels and labeling of marijuana products to assist in making purchases of these products. The Board is required to align existing rule with the amendments of this legislation, and to the extent possible, within the timeline established by the legislature. This rule proposal reflects and incorporates those statutorily required revisions.

This Issue Paper requests approval from the Board to file a CR 102 rule proposal to amend and update both WAC 314-55-077(8) and (9), and to amend and update WAC 314-55-105 regarding marijuana packaging and labeling requirements.

## **Rule Necessity**

Rules are needed for the following reasons:

1. The Board received two rule petitions from The Cannabis Alliance on March 11, 2019 as follows:
  - The first petition requested that the Board open WAC 314-55-105 to consider removing the current requirement that marijuana-infused liquid edible products must include a measuring device, such as a measuring cup or dropper;
  - The second petition requested that the Board open WAC 314-55-105 to revise the current requirement that marijuana-infused products for oral ingestion must be packaged in plastic 4 mil or greater in thickness, and instead, reduce the requirement to plastic 2 mil or greater in thickness.

The Board accepted both of these petitions on April 30, 2019, and consistent with the provisions of RCW 34.05.330, agreed to open the identified rule to consider the petitions and language proposed therein.

These proposals have been vetted, thoroughly discussed and researched during the rule development process, including a focus group with licensees, a focus group with prevention and public health representatives, and a listen and learn session consisting of all representatives from all interested parties, cumulating in acknowledgement of shared goals and general agreement on this proposal.

2. Engrossed Substitute Senate Bill (ESSB) 5298 (Chapter 393, Laws of 2019) involving marijuana product labeling will become effective January 1, 2020. Among other revisions, ESSB 5298 amended RCW 69.50.345, RCW 69.50.346, and created a new section describing the legislature's intent to allow additional information on the labels and labeling of marijuana products to assist in making purchases of these products. The Board is required to align existing rule with the amendments of this legislation, and to the extent possible, within the timeline established by the legislature.

3. The Board approved five Board Interim Policies (BIP) on January 9, 2019 as follows:

- BIP 05-2018 – Implementation of Cannabis Packaging and Labeling Rule changes;
- BIP-07-2018 – Marijuana labeling –False and misleading definition clarification;
- BIP-08-2018 – Marijuana labeling - Curative of therapeutic effects;
- BIP-09-2018 – Marijuana labeling - Marijuana infused edibles colors and homogenization, specific to WAC 314-55-077(8) and (9); and
- BIP-10-2018 – Marijuana labeling – Marijuana infused edibles colors.

Since the specific sections of rule that these BIP address were open for inquiry based not only the Cannabis Alliance petitions, but on the rule revisions that are necessary to comply with the provisions of ESSB 5298, these BIP were updated on July 19, 2019 to extend their compliance date to July 1, 2020. However, since the policies that these BIP sought to address have been incorporated into this rule proposal, addressed by way of ESSB 5298, or addressed by alternative resolution options, it is appropriate to rescind these BIP as soon as these rules become effective on January 1, 2020.

These new rule sections and amendments, in addition to proposed technical and clarifying revisions support the overarching agency goal of ensuring the highest level of public safety by continually improving and enforcing regulations that reflect the current, dynamic regulatory environment.

## **Description of Rule Changes**

**Amended Section. WAC 314-55-077(8)** – Removed phrase “throughout the product” and struck requirement that product prominently display on the label that, “This product contains marijuana.” Revised to indicate that marijuana-infused edible products in both solid and liquid form must be homogenized to ensure uniform disbursement of cannabinoids.

**Amended Section. WAC 314-55-077(9)**– Clarifies and streamlines guidance for processors wishing to infuse foods or drinks, provided that: any coatings applied to such products are compliant with the requirements of the chapter; the products do not require cooking or baking by the consumer; and package design that is not similar to commercially available products marketed to persons under twenty-one years of age,

**Amended Section. WAC 314-55-105(1) – Definitions.** Relocates definition section from the end of the section, to the beginning of the section. Adds product specific definitions and cross references to parallel statutory definitions; removes references to “especially appealing to children,” “youth,” and “minor” and assigns a single definition of “especially appealing to persons under the age of twenty-one” to assure consistency. Defines “structure and function claims” to the extent possible, in alignment with the FDA definition.

**Amended Section. WAC 314-55-105(2) – Marijuana concentrates.** Describes new and reaffirms existing standards that apply specifically to the packaging and labeling of marijuana concentrates. New provisions include, but are not limited to: packaging may be two mil or greater in thickness, as opposed to four mil; adds additional disclosure requirements around the addition of chemicals, compounds, thickening agents, terpenes, and other substances to any concentrate or extract during any point in production; reaffirms parameters around labeling that may be appealing to persons under the age of twenty-one; and adds the allowance of structure and function claims describing the role of the product to maintain the structure or any function of the body, along with a statutorily required disclaimer statement. Language updates include requirements of ESSB 5298, now codified in chapter 69.50 RCW.

**Amended Section. WAC 314-55-105(3) – Marijuana edibles in solid form.** Describes new and reaffirms existing standards that apply specifically to the packaging and labeling of marijuana edibles in solid form. New provisions include, but are not limited to: packaging can be two mil or greater in

thickness, as opposed to four mil; reaffirms parameters around labeling that may be appealing to persons under the age of twenty-one; and adds the allowance of structure and function claims describing the role of the product to maintain the structure or any function of the body, along with a statutorily required disclaimer statement. Language updates include requirements of ESSB 5298, now codified in chapter 69.50 RCW.

**Amended Section. WAC 314-55-105(4) – Marijuana edibles in liquid form.** Describes new and reaffirms existing standards that apply specifically to the packaging and labeling of marijuana edibles in liquid form. New provisions include, but are not limited to: packaging can be two mil or greater in thickness, as opposed to four mil; provides that packaging may include a measuring cup or dropper, and that hash marks on the bottle or package qualify as a measuring device; reaffirms and clarifies parameters around labeling that may be appealing to persons under the age of twenty-one; and adds the allowance of structure and function claims describing the role of the product to maintain the structure or any function of the body, along with a statutorily required disclaimer statement. Language updates include requirements of ESSB 5298, now codified in chapter 69.50 RCW.

**New Sub-Section. WAC 314-55-105(5) – Usable marijuana.** Describes new and reaffirms existing standards that apply specifically to the packaging and labeling of usable marijuana. New provisions include, but are not limited to: additional clarity around the parameters of labeling that may be appealing to persons under the age of twenty-one; and adds the allowance of structure and function claims describing the role of the product to maintain the structure or any function of the body, along with a statutorily required disclaimer statement. Language updates include requirements of ESSB 5298, now codified in chapter 69.50 RCW.

**New Sub-Section. WAC 314-55-105(6) – Marijuana mix.** Describes new and reaffirms existing standards that apply specifically to the packaging and labeling of marijuana mix. New provisions include, but are not limited to: additional clarity around parameters around labeling that may be appealing to persons under the age of twenty-one; and adds the allowance of structure and function claims describing the role of the product to maintain the structure or any function of the body, along with a statutorily required disclaimer statement. Language updates include requirements of ESSB 5298, now codified in chapter 69.50 RCW.

**New Sub-Section. WAC 314-55-105(7) – Marijuana topicals.** Describes standards that apply specifically to the packaging and labeling of marijuana topicals. New provisions include, but are not limited to: additional

clarity around parameters around labeling that may be appealing to persons under the age of twenty-one; and adds the allowance of structure and function claims describing the role of the product to maintain the structure or any function of the body, along with a statutorily required disclaimer statement. Language updates include requirements of ESSB 5298, now codified in chapter 69.50 RCW.

**New Sub-Section. WAC 314-55-105(8) – Optional label**

**information.** Previously embedded in another section of existing rule, this section has been streamlined to more clearly describe optional label information, specifically harvest date and “best by” date.

**New Sub-Section. WAC 314-55-105(9) – Accompanying**

**materials.** Formerly subsection (3) of this section, amendments reaffirm, clarify and update existing language around accompanying product-specific materials that must be provided with a marijuana product or made available to a consumer purchasing such products, including a statement disclosing all pesticides. Adds a requirement that a list disclosing all chemicals, compounds, additives, thickening agents, terpenes, or other substances added to marijuana concentrate during or after production be made available to consumers.

**New Sub-Section. WAC 314-55-105(10) – Upon request**

**materials.** Formerly subsection (4) of this section, reaffirms and clarifies that a consumer may request the name of the certified lab and quality assurance testing results for any marijuana product, and that the retailer must provide that information upon consumer request.





# PROPOSED RULE MAKING

## CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

**Agency:** Washington State Liquor and Cannabis Board

☒ **Original Notice**

☐ **Supplemental Notice to WSR** \_\_\_\_\_

☐ **Continuance of WSR** \_\_\_\_\_

☒ **Preproposal Statement of Inquiry was filed as WSR** 19-12-029 ; or

☐ **Expedited Rule Making--Proposed notice was filed as WSR** \_\_\_\_\_; or

☐ **Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**

☐ **Proposal is exempt under RCW** \_\_\_\_\_.

**Title of rule and other identifying information:** (describe subject) WAC 314-55-105 – Packaging and labeling requirements. The Washington State Liquor and Cannabis Board (Board) proposes new sections and amendments to existing rule that will remove the requirement for measuring devices for marijuana-infused liquid edibles; reduce plastic package thickness for marijuana-infused edibles; and implement the requirements and directives of Engrossed Senate Substitute Bill (ESSB) 5298 (Chapter 393, Laws of 2019). The Board also proposes non-substantive technical and clarifying revisions to WAC 314-55-077(8) and (9).

### Hearing location(s):

**Date:** \_\_\_\_\_ **Time:** \_\_\_\_\_ **Location:** (be specific) \_\_\_\_\_ **Comment:** \_\_\_\_\_

December 11, 2019	10:00 am	1025 Union Avenue, Olympia, WA 98501	
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**Date of intended adoption:** December 18, 2019 (Note: This is **NOT** the **effective** date)

### Submit written comments to:

Name: Katherine Hoffman

Address: 1025 Union Avenue, Olympia, WA 98501

Email: rules@lcb.wa.gov

Fax: 360-664-9689

Other:

By (date) December 11, 2019

### Assistance for persons with disabilities:

Contact Clariss Nghanabu, ADA Coordinator, Human Resources

Phone: 360-664-1642

Fax: 360-664-9689

TTY: 7-1-1 or 1-800-833-6388

Email: Clariss.Nghanabu@lcb.wa.gov

Other:

By (date) December 4, 2019

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The proposed rules significantly restructure and revise existing rules for marijuana packaging and labeling by distinguishing each product by type, and clearly listing the packaging and labeling requirements for each type. The rule proposal describes new provisions that include packaging thickness reduction from four mil to two mill or greater in thickness; provides that packaging may include a measuring cup or dropper, and that hash marks on the bottle or package qualify as a measuring device; reaffirms and clarifies parameters around labeling that may be appealing to persons under the age of twenty-one; and adds the allowance of structure and function claims describing the role of the product to maintain the structure or any function of the body, along with a statutorily required disclaimer statement, consistent with the requirements of ESSB 5298 now codified in chapter 69.50 RCW, and effective in January 1, 2020.

**Reasons supporting proposal:** Washington State marijuana packaging and labeling regulations have evolved since their initial promulgation in 2013. Originally designed to provide a basic framework, requirements included, but were not limited to what products must be packaged in child-resistant containers, what warning language needed to be on accompanying material, and what traceability information needed to be on every product label. Over time, rules related to packaging and labeling of marijuana products have been revised in response to legislation, prevention concerns, and industry growth. Other factors, such as the use of biodegradable packaging, and reduction of the market's environmental impacts suggest that additional options to support industry sustainability and product safety are needed. Protecting children and youth from accidental exposure to marijuana products continues to be a priority shared by the industry, the prevention community, the Board and many others. Assuring that marijuana product packaging is designed and constructed to be significantly difficult for children and youth to open, and requiring labeling that clearly communicates the adult nature of the product also continue to be shared priorities. This proposal reflects those priorities, as well as the outcome of an inclusive and engaged rule development process designed to balance several competing interests. These rules are needed to set enforceable standards consistent with legislative and policy directives, affirmatively respond to two rule petitions, and to clarify existing rule.

**Statutory authority for adoption:** RCW 69.50.342 and 69.50.345.

**Statute being implemented:** Engrossed Senate Substitute Bill (ESSB) 5298 (Chapter 393, Laws of 2019).

**Is rule necessary because of a:**

Federal Law?

☐ Yes ☒ No

Federal Court Decision?

☐ Yes ☒ No

State Court Decision?

☐ Yes ☒ No

If yes, CITATION:

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** None

**Name of proponent:** (person or organization) Washington State Liquor and Cannabis Board

☐ Private

☐ Public

☒ Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting: Coordinator	Katherine Hoffman, Rules	1025 Union Avenue, Olympia WA, 98501	360-664-1622
Implementation: Director	Becky Smith, Executive	1025 Union Avenue, Olympia, WA. 98501	360-664-1753
Enforcement: Director	Becky Smith, Executive	1025 Union Avenue, Olympia, WA, 98501	360-664-1753

**Is a school district fiscal impact statement required under RCW 28A.305.135?**

☐ Yes ☒ No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

**Is a cost-benefit analysis required under RCW 34.05.328?**

☐ Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

Phone:

Fax:  
TTY:  
Email:  
Other:

☒ No: Please explain: A cost benefit analysis is not required under RCW 34.05.328(5)(b)(iv) because the rules only clarify language without changing its effect. Additionally, a cost benefit analysis is not needed under RCW 34.05.328(5)(b)(v) because the content of the rules are explicitly and specifically dictated by statute.

**Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

☐ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

☐ This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

☐ This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

☒ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- |   |  |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)<br>(Internal government operations)         | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(e)<br>(Dictated by statute)  |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)<br>(Incorporation by reference)             | <input type="checkbox"/> RCW 34.05.310 (4)(f)<br>(Set or adjust fees)  |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(d)<br>(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)<br>((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

☒ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3): WAC 314-55-077(8); WAC 314-55-077(9); WAC 314-55-105(1); WAC 314-55-105(2); WAC 314-55-105(3); WAC 314-55-105(4); WAC 314-55-105(5); WAC 314-55-105(6); WAC 314-55-105(7); WAC 314-55-105(8); WAC 314-55-105(9); and WAC 314-55-105(10).

Explanation of exemptions, if necessary:

**COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES**

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

☒ No Briefly summarize the agency's analysis showing how costs were calculated. This rule proposal does not create any additional compliance costs, nor does it create any additional administrative, or regulatory burden. Rather, shifting the provision of a measuring cup for marijuana infused liquid edible products from a requirement to an option is anticipated to result in compliance cost reduction. Similarly, reducing packaging thickness from 4 mil to no less than 2 mil is anticipated to result in compliance cost reduction.

Additionally, the proposed, significant restructuring of WAC 314-55-105 is anticipated to result in ease of use, reduced administrative burden, and increased compliance success.

☐ Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name: Katherine Hoffman  
Address: 1025 Union Avenue, Olympia, WA 98501  
Phone: 360-664-1622  
Fax: 360-664-9689  
TTY:

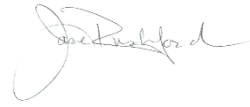
Email: rules@lcb.wa.gov  
Other:

**Date:** October 30, 2019

**Name:** Jane Rushford

**Title:** Chair

**Signature:**

A handwritten signature in cursive script, appearing to read "Jane Rushford", written in dark ink.

**WAC 314-55-077 Marijuana processor license—Privileges, requirements, and fees.** (1) A marijuana processor license allows the licensee to process, dry, cure, package, and label useable marijuana, marijuana concentrates, and marijuana-infused products for sale at wholesale to marijuana processors and marijuana retailers.

**(2) Application and license fees.**

(a) The application fee for a marijuana processor license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(b) The annual fee for issuance and renewal of a marijuana processor license is one thousand three hundred eighty-one dollars. The ((WSLCB)) board will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee is responsible for all fees required for the criminal history checks.

(c) The application window for marijuana processor licenses is closed. The ((WSLCB)) board may reopen the marijuana processor application window at subsequent times when the ((WSLCB)) board deems necessary.

(3) Any entity and/or principals within any entity are limited to no more than three marijuana processor licenses.

(4)(a) A marijuana processor that makes marijuana-infused solid or liquid product meant to be ingested orally (marijuana edibles) must obtain a marijuana-infused edible endorsement from the department of agriculture as required under chapter 15.125 RCW and rules adopted by the department to implement that chapter (chapter 16-131 WAC). A licensee must allow the ((WSLCB)) board or their designee to conduct physical visits and inspect the processing facility, recipes, and records required under WAC 314-55-087 during normal business hours or at any time of apparent operation without advance notice.

(b) A marijuana processor licensed by the board must ensure marijuana-infused edible processing facilities are constructed, kept, and maintained in a clean and sanitary condition in accordance with rules and as prescribed by the Washington state department of agriculture under chapter 15.125 RCW and rules promulgated to implement chapters 16-131, 16-165 and 16-167 WAC.

(5)(a) A marijuana processor may blend tested useable marijuana from multiple lots into a single package for sale to a marijuana retail licensee so long as the label requirements for each lot used in the blend are met and the percentage by weight of each lot is also included on the label.

(b) A processor may not treat or otherwise adulterate useable marijuana with any organic or nonorganic chemical or other compound whatsoever to alter the color, appearance, weight, or smell of the useable marijuana.

**(6) Recipes, product, packaging, and labeling approval.**

(a) A marijuana processor licensee must obtain label and packaging approval from the ((WSLCB)) board for all marijuana-infused products meant for oral ingestion prior to offering these items for sale to a marijuana retailer. The marijuana processor licensee must submit a picture of the product, labeling, and packaging to the ((WSLCB)) board for approval. More information on the product, packaging, and

label review process is available on the (~~((WLSCB's web site at www.leb.wa.gov))~~) boards website.

(b) All recipes for marijuana-infused products meant for oral ingestion (marijuana edible products) must be approved by the department of agriculture under chapter 16-131 WAC. Licensees must obtain recipe approval from the department of agriculture prior to submitting any marijuana edible products, packages, and labels for review and approval by the (~~((WSLCB))~~) board. The recipe for any marijuana-infused solid or liquid products meant to be ingested orally must be kept on file at the marijuana processor's licensed premises and made available for inspection by the (~~((WSLCB))~~) board or its designee.

(c) If the (~~((WSLCB))~~) board denies a marijuana-infused product for sale in marijuana retail outlets, the marijuana processor licensee may request an administrative hearing under chapter 34.05 RCW, Administrative Procedure Act.

(7) With the exception of the marijuana, all ingredients used in making marijuana-infused products for oral ingestion must be a commercially manufactured food as defined in WAC 246-215-01115.

(8) Marijuana-infused edible products in solid or liquid form must (~~((~~

~~(a)))~~ be homogenized to ensure uniform disbursement of cannabinoids (~~((throughout the product; and~~

~~(b) Until January 1, 2019, prominently display on the label "This product contains marijuana."))~~.

(9) A marijuana processor (~~((is limited in the types of))~~) may infuse food or drinks (~~((they may infuse))~~) with marijuana(~~((. Marijuana-infused products that))~~), provided that:

(a) The product or products do not require cooking or baking by the consumer (~~((are prohibited. Marijuana-infused products that are especially appealing to children are prohibited. Marijuana-infused edible products such as, but not limited to, gummy candies, lollipops, cotton candy, or brightly colored products, are prohibited.~~

~~((a)))~~;

(b) Coatings applied to the product or products are compliant with the requirements of this chapter;

(c) The product and package design is not similar to commercially available products marketed for consumption by persons under twenty-one years of age, as defined by WAC 314.55.105 (1)(c).

(10) To reduce the risk to public health, potentially hazardous foods as defined in WAC 246-215-01115 may not be infused with marijuana. Potentially hazardous foods require time-temperature control to keep them safe for human consumption and prevent the growth of pathogenic microorganisms or the production of toxins. Any food that requires refrigeration, freezing, or a hot holding unit to keep it safe for human consumption may not be infused with marijuana.

(~~((b)))~~) (11) Other food items that may not be infused with marijuana to be sold in a retail store include:

(~~((i)))~~) (a) Any food that has to be acidified to make it shelf stable;

(~~((ii)))~~) (b) Food items made shelf stable by canning or retorting;

(~~((iii)))~~) (c) Fruit or vegetable juices (this does not include shelf stable concentrates);

(~~((iv)))~~) (d) Fruit or vegetable butters;

(~~((v)))~~) (e) Pumpkin pies, custard pies, or any pies that contain egg;

~~((vi))~~ (f) Dairy products of any kind such as butter, cheese, ice cream, or milk; and

~~((vii))~~ (g) Dried or cured meats.

~~((e))~~ (h) Vinegars and oils derived from natural sources may be infused with dried marijuana if all plant material is subsequently removed from the final product. Vinegars and oils may not be infused with any other substance, including herbs and garlic.

~~((d))~~ (i) Marijuana-infused jams and jellies made from scratch must utilize a standardized recipe in accordance with 21 C.F.R. Part 150, revised as of April 1, 2013.

~~((e)Per)~~ (12) Consistent with WAC 314-55-104, a marijuana processor may infuse dairy butter or fats derived from natural sources, and use that extraction to prepare allowable marijuana-infused solid or liquid products meant to be ingested orally, but the dairy butter or fats derived from natural sources may not be sold as stand-alone products.

~~((f))~~ The ~~((WSLCB))~~ board may designate other food items that may not be infused with marijuana.

~~((10))~~ (13) Marijuana processor licensees are allowed to have a maximum of six months of their average useable marijuana and six months average of their total production on their licensed premises at any time.

~~((11))~~ (14) Processing service arrangements. A processing service arrangement is when one processor (processor B) processes useable marijuana or an altered form of useable marijuana (marijuana product) for another licensed processor (processor A) for a fee.

(a) Processor A is the product owner. However, processor B may handle the product under its license as provided in chapter 69.50 RCW and this chapter. Processor B is not allowed to transfer the product to a retailer and may only possess marijuana or marijuana products received from processor A for the limited purposes of processing it for ultimate transfer back to processor A.

(b) Processing service arrangements must be made on a cash basis only as provided in WAC 314-55-115 and payment for the service and return of the processed product must be made within thirty calendar days of delivery to processor B. Failure to do so as provided by the preceding sentence is a violation of this section and any marijuana or marijuana product involved in the transaction will be subject to seizure and destruction. Payment with any marijuana products, barter, trade, or compensation in any form other than cash for processing service arrangements is prohibited under processing service arrangements.

(c) Each processor that enters into a processing service arrangement must include records for each service arrangement in recordkeeping documents which must be maintained consistent with this chapter.

~~((12))~~ (15) Marijuana may not be returned by any retail licensee to any processor except as provided in this section.

(a) Every processor must maintain on the licensed premises for a period of five years complete records of all refunds and exchanges made under this section including an inventory of marijuana and marijuana products returned to the processor by any retail licensee.

(b) Marijuana may be returned by a retail licensee in the event a retailer goes out of the business of selling marijuana at retail and a cash refund, as defined by WAC 314-55-115, may be made upon the return of the marijuana or marijuana products, so long as WSLCB approval is acquired prior to returns and refunds under this subsection.

(c) Marijuana products different from that ordered by a retailer and delivered to the retailer may be returned to a processor and either replaced with marijuana products which were ordered or a cash refund, as defined by WAC 314-55-115, may be made. These incorrect orders must be discovered and corrected within eight days of the date the delivery was made to be eligible for returns and refunds under this subsection.

(d) A marijuana processor may accept returns of products and sample jars from marijuana retailers for destruction, but is not required to provide refunds to the retailer. It is the responsibility of the retailer to ensure the product or sample jar is returned to the processor.

AMENDATORY SECTION (Amending WSR 18-11-005, filed 5/2/18, effective 1/1/19)

**WAC 314-55-105 Marijuana product packaging and labeling ((requirements)).** ~~((1) Packaging requirements.~~

~~(a) **General packaging requirements applying to all marijuana products.** Any container or packaging containing usable marijuana, marijuana concentrates, or marijuana-infused products must protect the product from contamination and must not impart any toxic or deleterious substance to the usable marijuana, marijuana concentrates, or marijuana-infused product.~~

~~(b) **Additional product-specific packaging requirements.** The following product-specific packaging requirements apply to each of the following product types in addition to the packaging requirements provided in (a) of this subsection:~~

~~(i) **Marijuana-infused products general requirements.**~~

~~(A) All marijuana-infused products for oral ingestion must be packaged pursuant to the following requirements:~~

~~(I) Child resistant packaging in accordance with Title 16 C.F.R. 1700 of the Poison Prevention Packaging Act; or~~

~~(II) Plastic four mil or greater in thickness and be heat sealed with no easy-open tab, dimple, corner, or flap as to make it difficult for a child to open and as a tamperproof measure, except as provided in (b) (i) (A) (III) and (B) of this subsection.~~

~~(III) Marijuana-infused products for oral ingestion in liquid form where a single serving is contained with the package may be sealed using a metal crown cork style bottle cap. Marijuana-infused products for oral ingestion in liquid form that include more than one serving must be packaged with a resealable closure or cap.~~

~~(B) Marijuana-infused solid edible products.~~

~~(I) If there is more than one serving of marijuana-infused solid edible products in the package, each serving must be packaged individually in child resistant packaging as provided in (b) (i) of this subsection and placed in the outer package except as provided below.~~

~~(II) Products such as capsules, lozenges, and similar products approved by the WSLCB on a case-by-case basis may be packaged loosely within a resealing outer package that is child resistant in accordance with Title 16 C.F.R. 1700 of the Poison Prevention Packaging Act.~~

~~(C) Marijuana-infused liquid edible products. Packages containing more than one serving of marijuana-infused liquid edible product must:~~

~~(I) Have a resealing cap or closure; and~~



~~(II) Include a measuring device such as a measuring cap or dropper with the package containing the marijuana-infused liquid edible product. Hash marks on the bottle or package do not qualify as a measuring device.~~

~~(ii) **Marijuana concentrates.** Marijuana concentrates must be packaged:~~

~~(A) In child resistant packaging in accordance with Title 16 C.F.R. 1700 of the Poison Prevention Packaging Act; or~~

~~(B) Plastic four mil or greater in thickness, heat sealed with no easy-open tab, dimple, corner, or flap as to make it difficult for a child to open and as a tamperproof measure.~~

~~(2) **Labeling requirements.**~~

~~(a) **Marijuana and marijuana product labels generally.** The following label requirements apply to all marijuana products:~~

~~(i) Usable marijuana, marijuana concentrates, and marijuana-infused products must not be labeled as organic unless permitted by the United States Department of Agriculture in accordance with the Organic Foods Production Act.~~

~~(ii) Labels must comply with the version of NIST Handbook 130, Uniform Packaging and Labeling Regulation adopted in chapter 16-662 WAC.~~

~~(iii) All information, warning statements, and language required in this section must not be covered or obscured in any way.~~

~~(iv) Labels affixed to the container or package containing marijuana or marijuana products sold at retail must include:~~

~~(A) The business or trade name and the nine digit Washington state unified business identifier (UBI) number of the licensees that produced and processed the marijuana or marijuana products;~~

~~(B) The unique identifier number generated by the WSLCB's traceability system. This must be the same number that appears on the transport manifest;~~

~~(C) If more than one serving is in a package, the label must prominently display the number of servings in the package and the amount of product per serving;~~

~~(D) Net weight in ounces and grams or volume as applicable;~~

~~(E) THC concentration (delta-9 tetrahydrocannabinol) listed as total THC and activated THC-A and CBD concentration (cannabidiol) listed as total CBD and activated CBD-A;~~

~~(v) Labels of usable marijuana and marijuana products sold at retail in the state of Washington must not contain any statement, depiction, or illustration that:~~

~~(A) Is false or misleading;~~

~~(B) Promotes over consumption;~~

~~(C) Represents the use of marijuana has curative or therapeutic effects;~~

~~(D) Depicts a child or other person under legal age consuming marijuana, or includes:~~

~~(I) Objects such as toys, characters suggesting the presence of a child, or any other depiction or illustration designed in any manner to be especially appealing to children or other persons under twenty-one years of age; or~~

~~(II) Is designed in any manner that is especially appealing to children or other persons under twenty-one years of age.~~

~~(b) **Standard warnings required on all labels.** The following warning statements must be included on labels of all marijuana and marijuana products. The warning statements required below must be of a~~

size to be legible and readily visible to a consumer inspecting a package and must not be covered or obscured in any way.

- (i) ~~"Warning — May be habit forming";~~
- (ii) ~~"Unlawful outside Washington State";~~
- (iii) ~~"It is illegal to operate a motor vehicle while under the influence of marijuana"; and~~
- (iv) ~~The marijuana universal symbol as provided in WAC 314-55-106.~~

~~(c) **Additional product-specific labeling requirements.** In addition to the labeling requirements in subsection (3) (a) and (b) of this section, the following product-specific labeling requirements apply to each of the following product types and must be present on labels when offered for sale at retail:~~

~~(i) **Usable marijuana, including marijuana mix.** The statement "Smoking is hazardous to your health."~~

~~(ii) **Marijuana concentrates, marijuana infused extract for inhalation, and infused marijuana mix.**~~

~~(A) If solvents were used to create the concentrate or extract, a statement that discloses the type of extraction method, including any solvents or gases used to create the concentrate or extract; and~~

~~(B) Any other chemicals or compounds used to produce or were added to the concentrate or extract.~~

~~(iii) **Marijuana-infused products** (except for marijuana-infused products for topical application as provided in (c) (iv) of this subsection).~~

~~(A) Serving size and the number of servings contained within the unit;~~

~~(B) A list of all ingredients in descending order of predominance by weight or volume as applicable and a list of major food allergens as defined in the Food Allergen Labeling and Consumer Protection Act of 2004;~~

~~(C) If solvents were used, a statement that discloses the type of extraction method, including any solvents, gases, or other chemicals or compounds used to produce or that are added to the extract; and~~

~~(D) The following sentence: "CAUTION: Intoxicating effects may be delayed by 2+ hours."~~

~~(iv) **Marijuana-infused products for topical application.**~~

~~(A) The statement "DO NOT EAT" in bold, capital letters; and~~

~~(B) A list of all ingredients in descending order of predominance by weight or volume as applicable.~~

~~(d) **Permitted optional information that may be included on labels.**~~

~~(i)) (1) The following definitions apply to this section, unless the context clearly indicates otherwise:~~

~~(a) "Cartoon" means any drawing or other depiction of an object, person, animal, creature, or any similar caricature that meets any of the following criteria:~~

~~(i) The use of comically exaggerated features;~~

~~(ii) The attribution of human characteristics to animals, plants, or other objects;~~

~~(iii) The attribution of animal, plant, or other object characteristics to humans;~~

~~(iv) The attribution of unnatural or extra-human abilities.~~

~~(b) "Child resistant packaging" means packaging that is used to reduce the risk of poisoning in persons under the age of twenty-one through the ingestion of potentially hazardous items including, but~~

not limited to, marijuana concentrates, useable marijuana, and marijuana-infused products.

(c) "Especially appealing to persons under the age of twenty-one" means a product or label that includes, but is not limited to:

- (i) The use of cartoons;
- (ii) Bubble-type or other cartoon-like font;
- (iii) A design, brand, or name that resembles a noncannabis consumer product that is marketed to persons under the age of twenty-one;
- (iv) Symbols or celebrities that are commonly used to market products to persons under the age of twenty-one;
- (v) Images of persons under the age of twenty-one; or
- (vi) Similarities to products or words that refer to products that are commonly associated or marketed to persons under the age of twenty-one.

(d) "Marijuana 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, consistent with RCW 69.50.101(z).

(e) "Marijuana edible" means a marijuana-infused product as defined in RCW 69.50.101(ff).

(f) "Marijuana topical" or "topical" means any product containing parts of the cannabis plant that is intended for application to the body's surface including, but not limited to, lotions, ointments, salves, gels, or cream that are not intended for ingestion, inhalation, or insertion by humans or animals.

(g) "Structure and function claims" mean a description of the role of a marijuana product intended to affect normal structure and function in humans, characterized by the means by which a marijuana product acts to maintain such structure or function, or describe the general well-being from consumption of a marijuana product.

(h) "Useable marijuana" means dried marijuana flowers consistent with RCW 69.50.101(w). The term "useable marijuana" does not include either marijuana-infused products or marijuana concentrates.

(2) **Marijuana concentrates.** The following standards apply to all packaging and labeling of marijuana concentrates:

(a) Containers or packaging containing marijuana concentrates must protect the product from contamination. Containers or packaging must not impart any toxic or harmful substance to the marijuana concentrate.

(b) Marijuana concentrates must be packaged:

(i) In child resistant packaging consistent with 16 C.F.R. Part 1700, Poison Prevention Packaging Act; or

(ii) In plastic that is two mil or greater in thickness, heat sealed without an easy-open tab, dimple, corner, or flap that will protect persons under the age of twenty-one from accidental exposure to marijuana concentrates.

(c) Marijuana concentrates must not be labeled as organic unless permitted by the U.S. Department of Agriculture consistent with the Organic Foods Production Act.

(d) Marijuana concentrate labels must comply with the version of NIST Handbook 130, Uniform Packaging and Labeling regulation adopted in chapter 16-662 WAC.

(e) Marijuana concentrate labels must clearly and visibly provide all of the following information:

(i) The business or trade name and the nine digit Washington state unified business identifier (UBI) number of the marijuana producer and processor;

(ii) The lot numbers of the product;

(iii) The unique identifier number generated by the board's traceability system. This is the same number that appears on the transport manifest;

(iv) The serving or draw size and the number of servings contained with the unit. If more than one serving is in a package, the label must prominently display the serving size, the number of servings in the package and the amount of product per serving;

(v) The net weight in ounces and grams or volume as applicable;

(vi) Total THC (delta-9-tetrahydrocannabinol) meaning the concentration of THC and THCA, total CBD (cannabidiol) meaning the concentration of CBDA and CBD, using the formulas referenced in WAC 314-55-102;

(vii) Medically and scientifically accurate and reliable information about the health and safety risks posed by marijuana use;

(viii) If solvents were used to create concentrate or extract, a statement that discloses the type of extraction method, including in solvents or gases used to create the concentrate; and

(ix) A complete list of any other chemicals, compounds, additives, thickening agents, terpenes, or other substances used to produce or added to the concentrate or extract at any point during production. A copy of the complete list of chemicals, compounds, additives, thickening agents, terpenes, or other substances must be kept and maintained at the facility in which the marijuana concentrates are processed.

(f) Marijuana concentrate labels may not contain any statement, depiction, or illustration that:

(i) Is false or misleading;

(ii) Promotes over consumption;

(iii) Represents that the use of marijuana has curative or therapeutic effects;

(iv) Depicts a person under the age of twenty-one consuming marijuana; or

(v) Is especially appealing to persons under twenty-one years of age as defined in subsection (1)(c) of this section.

(g) The following statements must be included on all marijuana concentrate labels:

(i) "Warning - May be habit forming;"

(ii) "Unlawful outside Washington State;"

(iii) "It is illegal to operate a motor vehicle while under the influence of marijuana;"

(iv) The marijuana universal symbol as provided in WAC 314-55-106; and

(v) "Smoking is hazardous to your health."

(h) Product labeling for marijuana concentrates identified as compliant marijuana product under RCW 69.50.375(4) and chapter 246-70 WAC may include:

(i) A structure or function claim describing the intended role of the product to maintain the structure or any function of the body; or

(ii) Characterization of the documented mechanism by which the product acts to maintain such structure or function, provided that the claim is truthful and not misleading.

(iii) Any statement made under this subsection may not claim to diagnose, mitigate, treat, cure, or prevent any disease.

(i) Where there is one statement made under (h) of this subsection, or there is a warning describing the psychoactive effects of the marijuana product that is not false or misleading, the disclaimer must

state, "This statement has not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(j) Where there is more than one statement made under (h) of this subsection, or there is a warning describing the psychoactive effects of the marijuana product that is not false or misleading, the disclaimer must state, "These statements have not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(3) **Marijuana edibles in solid form.** The following standards apply to all packaging and labeling of marijuana edibles in solid form:

(a) Containers or packaging containing marijuana edibles in solid form must protect the product from contamination. Containers or packaging must not impart any toxic or harmful substance to the marijuana edibles in solid form.

(b) Marijuana edibles in solid form must be packaged:

(i) In child resistant packaging consistent with 16 C.F.R. Part 1700, Poison Prevention Packaging Act; or

(ii) In plastic that is two mil or greater in thickness, heat sealed without an easy-open tab, dimple, corner, or flap that will protect persons under the age of twenty-one from accidental exposure to marijuana edibles in solid form.

(c) Marijuana edibles in solid form must not be labeled as organic unless permitted by the U.S. Department of Agriculture consistent with the Organic Foods Production Act.

(d) Labels for marijuana edibles in solid form must comply with the version of NIST Handbook 130, Uniform Packaging and Labeling regulation adopted in chapter 16-662 WAC.

(e) Labels for marijuana edibles in solid form must clearly and visibly provide all of the following information:

(i) The business or trade name and the nine digit Washington state unified business identifier (UBI) number of the licensees that produced and processed the marijuana or marijuana products;

(ii) The lot numbers of the product;

(iii) The unique identifier number generated by the board's traceability system. This must be the same number that appears on the transport manifest;

(iv) The serving size and the number of servings contained within the unit. If more than one serving is in a package, the label must prominently display the serving size, the number of servings in the package and the amount of product per serving;

(v) Net weight in ounces and grams or volume as applicable;

(vi) Total THC (delta-9-tetrahydrocannabinol) meaning the concentration of THC and THCA, total CBD (cannabidiol) meaning the concentration of CBDA and CBD, using the formulas referenced in WAC 314-55-102;

(vii) Medically and scientifically accurate and reliable information about the health and safety risks posed by marijuana use;

(viii) A list of ingredients in descending order of predominance by weight or volume as applicable and a list of major food allergens as defined in the Food Allergen Labeling and Consumer Protection Act of 2004;

(ix) If solvents were used, a statement that discloses the type of extraction method, including any solvents, gases, or other chemicals or compounds used to produce or that were added to the extract.

(f) Labels for marijuana edibles in solid form may not contain any statement, depiction, or illustration that:

(i) Is false or misleading;  
(ii) Promotes over consumption;  
(iii) Represents that the use of marijuana has curative or therapeutic effects;

(iv) Depicts a person under the age of twenty-one consuming marijuana, or is especially appealing to persons under twenty-one years of age as defined in subsection (1)(c) of this section.

(g) The following warning statements must be included on all labels for all marijuana edibles in solid form. The following warning statements must be legible, unobscured, and visible to the consumer:

(i) "Warning - May be habit forming;"  
(ii) "Unlawful outside Washington State;"  
(iii) "It is illegal to operate a motor vehicle under the influence of marijuana;"

(iv) The marijuana universal symbol as provided in WAC 314-55-106; and

(v) "Caution: Intoxicating effects may be delayed by 2+ hours."

(h) Product labeling for marijuana edibles in solid form identified as compliant marijuana product under RCW 69.50.375(4) and chapter 246-70 WAC may include:

(i) A structure or function claim describing the intended role of the product to maintain the structure or any function of the body; or

(ii) Characterization of the documented mechanism by which the product acts to maintain such structure or function, provided that the claim is truthful and not misleading.

(iii) Any statement made under this subsection may not claim to diagnose, mitigate, treat, cure, or prevent any disease.

(i) Where there is one statement made under (h) of this subsection, or there is a warning describing the psychoactive effects of the marijuana product, provided it is not false or misleading, the disclaimer must state, "This statement has not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(j) Where there is more than one statement made under (h) of this subsection, or there is a warning describing the psychoactive effects of the marijuana product, provided they are not false or misleading, the disclaimer must state, "These statements have not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(4) **Marijuana edibles in liquid form.** The following standards apply to all packaging and labeling of marijuana edibles in liquid form:

(a) Containers or packaging containing marijuana edibles in liquid form must protect the product from contamination. Containers or packaging must not impart any toxic or harmful substance to the marijuana edibles in liquid form.

(b) Marijuana edibles in liquid form must be packaged:

(i) In child resistant packaging consistent with 16 C.F.R. Part 1700, Poison Prevention Packaging Act; or

(ii) In plastic that is two mil or greater in thickness, heat sealed without an easy-open tab, dimple, corner, or flap that will protect persons under the age of twenty-one from accidental exposure to marijuana edibles in liquid form.

(iii) Marijuana edibles in liquid form that include more than one serving must be packaged with a resealable closure or cap. Marijuana edibles in liquid form may include a measuring device such as a measuring cup or dropper. Hash marks on the bottle or package qualify as a measuring device.

(c) Marijuana edibles in liquid form must not be labeled as organic unless permitted by the U.S. Department of Agriculture consistent with the Organic Foods Production Act.

(d) Labels for marijuana edibles in liquid form must comply with the version of NIST Handbook 130, Uniform Packaging and Labeling regulation adopted in chapter 16-662 WAC.

(e) Labels for marijuana edibles in liquid form must clearly and visibly provide all of the following information:

(i) The business or trade name and the nine digit Washington state unified business identifier (UBI) number of the licensees that produced and processed the marijuana or marijuana products;

(ii) The lot numbers of the product;

(iii) The unique identifier number generated by the board's traceability system. This must be the same number that appears on the transport manifest;

(iv) The serving size and the number of servings contained within the unit. If more than one serving is in a package, the label must prominently display the serving size, the number of servings in the package and the amount of product per serving;

(v) Net weight in ounces and grams or volume as applicable;

(vi) Total THC (delta-9-tetrahydrocannabinol) meaning the concentration of THC and THCA, total CBD (cannabidiol) meaning the concentration of CBDA and CBD, using the formulas referenced in WAC 314-55-102;

(vii) Medically and scientifically accurate and reliable information about the health and safety risks posed by marijuana use;

(viii) A list of all ingredients in descending order of predominance by weight or volume as applicable and a list of major food allergens as defined in the Food Allergen Labeling and Protections Act of 2004;

(ix) If solvents were used, a statement that discloses the type of extraction method, including any solvents, gases, or other chemicals or compounds used to produce or added to the extract.

(f) Labels for marijuana edibles in liquid form may not contain any statement, depiction, or illustration that:

(i) Is false or misleading;

(ii) Promotes over consumption;

(iii) Represents the use of marijuana has curative or therapeutic effects;

(iv) Depicts a person under the age of twenty-one consuming marijuana, or is especially appealing to persons under twenty-one years of age as defined in subsection (1)(c) of this section.

(g) The following warning statements must be included on all labels for all marijuana edibles in liquid form. The following warning statements must be legible, unobscured, and visible to the consumer:

(i) "Warning - May be habit forming;"

(ii) "Unlawful outside Washington State;"

(iii) "It is illegal to operate a motor vehicle under the influence of marijuana;"

(iv) The marijuana universal symbol as provided in WAC 314-55-106; and

(v) "Caution: Intoxicating effects may be delayed by 2+ hours."

(h) Product labeling for marijuana edibles in liquid form identified as compliant marijuana product under RCW 69.50.375(4) and chapter 246-70 WAC may include:

(i) A structure or function claim describing the intended role of the product to maintain the structure or any function of the body; or

(ii) Characterization of the documented mechanism by which the product acts to maintain such structure or function, provided that the claim is truthful and not misleading.

(iii) Any statement made under this subsection may not claim to diagnose, mitigate, treat, cure, or prevent any disease.

(i) Where there is one statement made under (h) of this subsection, or there is a warning describing the psychoactive effects of the marijuana product, provided it is not false or misleading, the disclaimer must state, "This statement has not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(j) Where there is more than one statement made under (h) of this subsection, or there is a warning describing the psychoactive effects of the marijuana product, provided they are not false or misleading, the disclaimer must state, "These statements have not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(5) **Useable marijuana.** The following standards apply to all packaging and labeling of useable marijuana:

(a) Containers or packaging containing useable marijuana must protect the product from contamination. Containers or packaging must not impart any toxic or harmful substance to the useable marijuana.

(b) Useable marijuana must not be labeled as organic unless permitted by the U.S. Department of Agriculture consistent with the Organic Foods Production Act.

(c) Useable marijuana must comply with the version of NIST Handbook 130, Uniform Packaging and Labeling regulation adopted in chapter 16-662 WAC.

(d) Labels for useable marijuana must clearly and visibly provide all of the following information:

(i) The business or trade name and the nine digit Washington state unified business identifier (UBI) number of the licensees that produced and processed the marijuana or marijuana products;

(ii) The lot number of the product;

(iii) The unique identifier number generated by the board's traceability system. This must be the same number that appears on the transport manifest;

(iv) The serving or draw size contained within the unit. If more than one serving is in a package, the label must prominently display the serving size, the number of servings in the package and the amount of product per serving;

(v) Net weight in ounces and grams or volume as applicable;

(vi) Total THC (delta-9-tetrahydrocannabinol) meaning the concentration of THC and THCA, total CBD (cannabidiol) meaning the concentration of CBDA and CBD, using the formulas referenced in WAC 314-55-102;

(vii) Medically and scientifically accurate and reliable information about the health and safety risks posed by marijuana use.

(e) Labels for useable marijuana may not contain any statement, depiction, or illustration that:

(i) Is false or misleading;

(ii) Promotes over consumption;

(iii) Represents the use of marijuana has curative or therapeutic effects;

(iv) Depicts a person under the age of twenty-one consuming marijuana, or is especially appealing to persons under twenty-one years of age as defined in subsection (1)(c) of this section.



(f) The following warning statements must be included on all labels for all useable marijuana. The following warning statements must be legible, unobscured, and visible to the consumer:

(i) "Warning - May be habit forming;"

(ii) "Unlawful outside Washington State;"

(iii) "It is illegal to operate a motor vehicle under the influence of marijuana;"

(iv) The marijuana universal symbol as provided in WAC 314-55-106; and

(v) "Smoking is hazardous to your health."

(g) Product labeling for useable marijuana identified as compliant marijuana product under RCW 69.50.375(4) and chapter 246-70 WAC may include:

(i) A structure or function claim describing the intended role of the product to maintain the structure or any function of the body; or

(ii) Characterization of the documented mechanism by which the product acts to maintain such structure or function, provided that the claim is truthful and not misleading.

(iii) Any statement made under this subsection may not claim to diagnose, mitigate, treat, cure, or prevent any disease.

(h) Where there is one statement made under (g) of this subsection, or there is a warning describing the psychoactive effects of the marijuana product, provided it is not false or misleading, the disclaimer must state, "This statement has not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(i) Where there is more than one statement made under (g) of this subsection, or there is a warning describing the psychoactive effects of the marijuana product, provided they are not false or misleading, the disclaimer must state, "These statements have not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(6) **Marijuana mix.** Marijuana mix is defined in WAC 314-55-010(22) as an intermediate lot that contains multiple strains of useable marijuana and is chopped or ground so no particles are greater than 3 mm. The following standards apply to all packaging and labeling of marijuana mix:

(a) Containers or packaging containing marijuana mix must protect the product from contamination. Containers or packaging must not impart any toxic or harmful substance to the marijuana mix.

(b) Marijuana mix must not be labeled as organic unless permitted by the U.S. Department of Agriculture consistent with the Organic Foods Production Act.

(c) Marijuana mix must comply with the version of NIST Handbook 130, Uniform Packaging and Labeling regulation adopted in chapter 16-662 WAC.

(d) Labels for marijuana mix must clearly and visibly provide all of the following information:

(i) The business or trade name and the nine digit Washington state unified business identifier (UBI) number of the licensees that produced and processed the marijuana or marijuana products;

(ii) The lot numbers of the product;

(iii) The unique identifier number generated by the board's traceability system. This must be the same number that appears on the transport manifest;

(iv) The serving size and the number of servings contained within the unit. If more than one serving is in a package, the label must

prominently display the serving size, the number of servings in the package and the amount of product per serving;

(v) Net weight in ounces and grams or volume as applicable;

(vi) Total THC (delta-9-tetrahydrocannabinol) meaning the concentration of THC and THCA, total CBD (cannabidiol) meaning the concentration of CBDA and CBD, using the formulas referenced in WAC 314-55-102;

(vii) Medically and scientifically accurate and reliable information about the health and safety risks posed by marijuana use;

(viii) If solvents were used, a statement that discloses the type of extraction method, including any solvents, gases, or other chemicals or compounds used to produce or added to the extract;

(ix) Any other chemicals or compounds used to produce or were added to the concentrate or extract.

(e) Labels for marijuana mix form may not contain any statement, depiction, or illustration that:

(i) Is false or misleading;

(ii) Promotes over consumption;

(iii) Represents the use of marijuana has curative or therapeutic effects;

(iv) Depicts a person under the age of twenty-one consuming marijuana, or is especially appealing to persons under twenty-one years of age as defined in subsection (1)(c) of this section.

(f) The following warning statements must be included on all labels for all marijuana mix. The following warning statements must be legible, unobscured, and visible to the consumer:

(i) "Warning - May be habit forming;"

(ii) "Unlawful outside Washington State;"

(iii) "It is illegal to operate a motor vehicle under the influence of marijuana;"

(iv) The marijuana universal symbol as provided in WAC 314-55-106; and

(v) "Smoking is hazardous to your health."

(g) Product labeling for marijuana mix identified as compliant marijuana product under RCW 69.50.375(4) and chapter 246-70 WAC may include:

(i) A structure or function claim describing the intended role of the product to maintain the structure or any function of the body; or

(ii) Characterization of the documented mechanism by which the product acts to maintain such structure or function, provided that the claim is truthful and not misleading.

(iii) Any statement made under this subsection may not claim to diagnose, mitigate, treat, cure, or prevent any disease.

(h) Where there is one statement made under (g) of this subsection, or there is a warning describing the psychoactive effects of the marijuana product, provided it is not false or misleading, the disclaimer must state, "This statement has not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(i) Where there is more than one statement made under (g) of this subsection, or there is a warning describing the psychoactive effects of the marijuana product, provided they are not false or misleading, the disclaimer must state, "These statements have not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(7) **Marijuana topicals.** The following standards apply to all packaging and labeling of marijuana topicals:

(a) Containers or packaging containing a marijuana topical must protect the product from contamination. Containers or packaging must not impart any toxic or harmful substance to the marijuana topical.

(b) Marijuana topicals must not be labeled as organic unless permitted by the U.S. Department of Agriculture consistent with the Organic Foods Production Act.

(c) Marijuana topicals must comply with the version of NIST Handbook 130, Uniform Packaging and Labeling regulation adopted in chapter 16-662 WAC.

(d) Labels for marijuana topicals must clearly and visibly provide all of the following information:

(i) The business or trade name and the nine digit Washington state unified business identifier (UBI) number of the licensees that produced and processed the marijuana or marijuana products;

(ii) The lot numbers of the product;

(iii) The unique identifier number generated by the board's traceability system. This must be the same number that appears on the transport manifest;

(iv) The label must prominently display the net weight in ounces and grams or volume as applicable, and may not exceed serving and transaction limits as described in WAC 314-55-095;

(v) Total THC (delta-9-tetrahydrocannabinol) meaning the concentration of THC and THCA, total CBD (cannabidiol) meaning the concentration of CBDA and CBD, using the formulas referenced in WAC 314-55-102;

(vi) Medically and scientifically accurate and reliable information about the health and safety risks posed by marijuana use; and

(vii) A list of all ingredients in descending order of predominance by weight or volume as applicable.

(e) Labels for marijuana topicals may not contain any statement, depiction, or illustration that:

(i) Is false or misleading;

(ii) Promotes over consumption;

(iii) Represents the use of marijuana has curative or therapeutic effects;

(iv) Depicts a person under the age of twenty-one consuming marijuana, or is especially appealing to persons under twenty-one years of age as defined in subsection (1)(c) of this section.

(f) The following warning statements must be included on all labels for all marijuana topicals. The following warning statements must be legible, unobscured, and visible to the consumer:

(i) "Unlawful outside Washington State;"

(ii) The marijuana universal symbol as provided in WAC 314-55-106; and

(iii) "DO NOT EAT" in bold, capital letters.

(g) Product labeling for marijuana topicals identified as compliant marijuana product under RCW 69.50.375(4) and chapter 246-70 WAC may include:

(i) A structure or function claim describing the intended role of the product to maintain the structure or any function of the body; or

(ii) Characterization of the documented mechanism by which the product acts to maintain such structure or function, provided that the claim is truthful and not misleading.

(iii) Any statement made under this subsection may not claim to diagnose, mitigate, treat, cure, or prevent any disease.

(h) Where there is one statement made under (g) of this subsection, or there is a warning describing the psychoactive effects of the

marijuana product, provided it is not false or misleading, the disclaimer must state, "This statement has not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(i) Where there is more than one statement made under (g) of this subsection, or there is a warning describing the psychoactive effects of the marijuana product, provided they are not false or misleading, the disclaimer must state, "These statements have not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(8) **Optional label information.** Optional label information includes the following: Harvest date, "best by" date, and manufactured dates ((are optional information that may be placed on labels.

(ii) Other cannabinoids and terpenes not required to be placed on the label by this section may be included on the label if:

(A) The producer or processor has test results from a certified third-party lab to support the claim; and

(B) The lab results are made available to the consumer upon request)).

((+3)) (9) **Accompanying materials.** ((The following)) Accompanying materials must be provided with a marijuana product or made available to the consumer purchasing marijuana products ((at retail)).

A producer or processor ((may)) must provide ((this)) the following product-specific information, for as long as the product is for sale, through an internet link, web address, or QR code on the product label ((so long as the information particular to that product as required below is maintained and accessible to a consumer for as long as the product is available for sale at retail.)) as follows:

(a) A statement ((that discloses)) disclosing all pesticides applied to the marijuana plants and growing medium during production of the ((usable)) useable marijuana or the base marijuana used to create the concentrate or the extract added to infused products;

(b) A list disclosing all of the chemicals, compounds, additives, thickening agents, terpenes, or other substances added to any marijuana concentrate during or after production.

((+4)) (10) **Upon request materials.** ((Upon the request of a retail customer, a retailer must disclose the name of the certified lab that conducted and the results of the required quality assurance tests for any marijuana or marijuana product the customer is purchasing or considering purchasing.

(5) For the purposes of this section, the following definitions apply:

(a) "Cartoon" means any drawing or other depiction of an object, person, animal, creature, or any similar caricature that satisfies any of the following criteria:

(i) The use of comically exaggerated features;

(ii) The attribution of human characteristics to animals, plants or other objects, or the similar use of anthropomorphic technique; or

(iii) The attribution of unnatural or extra-human abilities, such as imperviousness to pain or injury, X-ray vision, tunneling at very high speeds, or transformation.

(b) "Especially appealing to children" means a product, label, or advertisement that includes, but is not limited to, the following:

(i) The use of cartoons;

(ii) Bubble-type or other cartoon-like or action font;

~~(iii) The use of bright colors similar to those used on commercially available products intended for or that target youth or children;~~

~~(iv) A design, brand, or name that resembles a noncannabis consumer product of the type that is typically marketed to minors;~~

~~(v) Symbols or celebrities that are commonly used to market products to minors;~~

~~(vi) Images of minors; or~~

~~(vii) Similarities to products or words that refer to products that are commonly associated with minors or marketed to minors.))~~ A consumer may request the name of the certified lab and quality assurance test results for any marijuana or marijuana product. A retailer must provide the information upon request.



**Liquor and Cannabis Board Interim Policy BIP-15-2019**

**Subject:** Return of flavored marijuana vapor products by retailers to processors in exchange for credit.

**Effective Date:** October 30, 2019

**Ending Date:** December 31, 2019

**Approved:**

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**Jane Rushford, Board Chair**

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**Ollie Garrett, Board Member**

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**Russ Hauge, Board Member**

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**Background:**

On October 10, 2019, State Board of Health emergency rules codified at chapter 246-80 WAC became effective, prohibiting the sale of flavored vapor products by persons licensed under chapters 69.50 or 70.345 RCW, consistent with the directives of Executive Order 19-03 Addressing the Vaping Use Public Health Crisis.

On October 23, 2019, WSLCB emergency rules WAC 314-55-077 and 314-55-079 became effective, providing that the Board may take disciplinary action against any processor or retailer, respectively, failing to comply with the provisions of chapter 246-80 WAC. These emergency rules bridged the enforcement requirements of chapter 246-80 WAC with the authority of chapter 69.50 RCW.

The Board of Health emergency rule at chapter 246-80 WAC banning flavored marijuana vapor products has created a financial liability for many marijuana licensees. Current Board rules do not allow retailers to return the banned products in exchange for credit to be used for future purchase of allowed products.

Relevant statutes and rules:

- RCW 69.50.328 Marijuana producer processor – No direct or indirect financial interest in licensed marijuana retailers.

- WAC 314-55-018 Prohibited practices – Money advances – Contracts – Gifts – Rebates, discounts, and exceptions, etc.
- WAC 314-55-077(12) Marijuana may not be returned by any retail licensee to any processor except as provided in this section.
- WAC 314-55-115 What method of payment can a marijuana licensee use to purchase marijuana?

**Purpose:**

The purpose of this interim policy is to allow, for a limited time, WSLCB licensed marijuana retailers to return flavored marijuana concentrates for inhalation and flavored marijuana extracts for inhalation, as defined in chapter 246-80 WAC, to WSLCB licensed marijuana processors for credit against future purchases of marijuana products.

**Policy Statement:**

Effective immediately, and retroactively to October 10, 2019, WSLCB licensed marijuana retailers may return flavored marijuana concentrates for inhalation and flavored marijuana extracts for inhalation, as defined in chapter 246-80 WAC, to WSLCB licensed marijuana processors for credit against future purchases of marijuana products.

WSLCB licensed marijuana processors may grant credit to WSLCB licensed marijuana retailers for return of flavored marijuana concentrates for inhalation and flavored marijuana extracts for inhalation, as defined in chapter 246-80 WAC, against future purchases of marijuana products.

WSLCB licensed processors may accept banned vapor products and issue a refund, credit, or exchange of similar product, not to exceed the acquisition cost of the product being returned, until December 31, 2019. A credit balance may be maintained for up to six months, until June 30, 2020. Records must be maintained that clearly show a detailed accounting of each transaction involving a return for refund, credit, or exchange. A record of all expired credit must also be maintained. All records must comply with WAC 314-55-087.

The Board reserves its discretion to extend or rescind BIP 15-2019 as necessary.