



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 18, 2019

TIME: 11:15 AM

WSR 20-01-172

Agency: Washington State Liquor and Cannabis Board

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) January 1, 2020 (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain: The adopted amendments contained in WAC 315-55-105 implement relevant sections of Engrossed Substitute Senate Bill (ESSB) 5298 (Chapter 393, Laws of 2019) that becomes effective January 1, 2020, regarding the packaging and labeling of marijuana products.

Purpose: WAC 314-55-105 – Packaging and labeling requirements. The Washington State Liquor and Cannabis Board (Board) has adopted amendments to existing rule that remove the requirement for measuring devices for marijuana-infused liquid edibles; reduced plastic package thickness for marijuana-infused edibles, and implemented the requirements of ESSB 5298. The Board has also adopted technical and clarifying revisions to WAC 314-55-077(8) and (9) related to packaging and labeling requirements.

Citation of rules affected by this order:

- New:
- Repealed:
- Amended: WAC 314-55-077; WAC 314-55-105.
- Suspended:

Statutory authority for adoption: RCW 69.50.342; RCW 69.50.345.

Other authority: Engrossed Senate Substitute Bill (ESSB) 5298 (Chapter 393, Laws of 2019.)

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 19-22-030 on October 30, 2019 (date).

Describe any changes other than editing from proposed to adopted version: The following changes were made from the proposed version to the adopted version:

WAC 314-55-105(1)(g): Added “consistent with guidance provided in 21 U.S.C. Sec. 343(6)” to provide definitional clarity.

WAC 314-55-105(3)(c): Reinserted language that was erroneously struck during a previous edit that provides processors with the option to package capsules, lozenges, and similar products within a resealing, child resistant outer package that is child resistant in accordance with Title 16 C.F.R. 1700 of the Poison Prevention Packaging Act.

WAC 314-55-105(4)(b)(iii): Revised language to align with the rule petition proposal the triggered this rule project, to read, “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 must include a measuring device such as a measuring cap or dropper. Hash marks on the bottle or package qualify as a measuring device.” This revision clarifies that licensees have the option to provide a measuring cap or dropper, or other measuring device, but at minimum, must provide hash marks on a packaging containing more than one serving of marijuana-infused liquid edible product.

WAC 314-55-105 (2)(e)(iv), (5)(d)(iv) and (6)(d)(iv) re: label serving size: struck language that read, “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;”

WAC 314-55-105 (2)(e)(ii), (3)(e)(ii), (4)(e)(ii), (5)(d)(ii), (6)(d)(ii) and (7)(d)(ii) re: lot number: Combined language formerly appearing separately regarding lot number requirement and unique identifier generated by the Board’s traceability system to read, “The lot number of the product (the unique identifier number generated by the Board’s traceability system). This must be the same number that appears on the transport manifest;”

WAC 314-55-105(2)(f)(i), (3)(g)(i), (4)(f)(i), (5)(e)(i), (6)(e)(i), (7)(e)(i): added “consistent with guidance provided by 21 C.F.R. Sec. 101.18(a)” to provide clarity.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Web site:
Other:

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New		Amended	1	Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New	___	Amended	___	Repealed	___
-----	-----	---------	-----	----------	-----

The number of sections adopted on the agency’s own initiative:

New		Amended		Repealed	___
-----	--	---------	--	----------	-----

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	___	Repealed	___
-----	-----	---------	-----	----------	-----

The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New		Amended	2	Repealed	___

Date Adopted: December 18, 2019

Name: Jane Rushford

Title: Chair

Signature:



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, consistent with the guidance provided in 21 U.S.C. Sec. 343(6).

(h) "Useable marijuana" means dried marijuana flowers consistent with RCW 69.50.101(wv). 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 number of the product (the unique identifier number generated by the board's traceability system). This must be the same number that appears on the transport manifest;

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

(iv) 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;

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

(vi) 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

(vii) 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, consistent with guidance provided in 21 C.F.R. Sec. 101.18(a);

(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 Washing-

ton. 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-infused edibles in solid form, such as capsules, lozenges, and similar products approved by the board 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.

(d) 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.

(e) 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.

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

(iii) 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;

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

(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;

(vii) 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;

(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 that were added to the extract.

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

(i) Is false or misleading, consistent with guidance provided in 21 C.F.R. Sec. 101.18(a);

(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.

(h) 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."

(i) 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.

(j) Where there is one statement made under (i) 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."

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

(iii) 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;

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

(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;

(vii) 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;

(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.

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

(i) Is false or misleading, consistent with guidance provided in 21 C.F.R. Sec. 101.18(a);

(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 (the unique identifier number generated by the board's traceability system). This must be the same number that appears on the transport manifest;
 - (iii) Net weight in ounces and grams or volume as applicable;
 - (iv) 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;
 - (v) 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, consistent with guidance provided in 21 C.F.R. Sec. 101.18(a);
 - (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 number of the product (the unique identifier number generated by the board's traceability system). This must be the same number that appears on the transport manifest;

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

(iv) 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;

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

(vi) 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;

(vii) 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, consistent with guidance provided in 21 C.F.R. Sec. 101.18(a);

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

(iii) 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;

(iv) 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;

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

(vi) 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, consistent with guidance provided in 21 C.F.R. Sec. 101.18(a);

(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.