



Washington State Liquor and Cannabis Board

Topic: Petition for Adoption, Amendment, or Repeal of a State Administrative Rule – (WAC 314-55-106 – Principal Display Panels).

Date: June 18, 2024

Presented by: Jeff Kildahl, Policy and Rules Coordinator

Background

On April 29, 2024, Michael Lucero, a member of the public, submitted a petition for adoption, amendment, or repeal of a state administrative rule to the Liquor and Cannabis Board (LCB). This petition requests changes to WAC [314-55-106](#) regarding what the “principal display panel” of a cylindrical cannabis container is.

An excerpt from the petition request form is included below:

2. AMEND RULE - I am requesting the agency to change an existing rule.

List rule number (WAC), if known: WAC 314-55-106

- I am requesting the following change: Clarification that the "principal display panel" of a cylindrical cannabis package (eg a tube or jar) is the oblong portion of the cylinder vs. the top or bottom.
- This change is needed because: The clarified rule would align w/ current industry standards. Changing would impose unreasonable costs and detract from ability to brand which is key to
- The effect of this rule change will be: Processors could compliantly sell eg pre-roll tubes with the warning symbol appropriately placed on the cylinder of the tube.
- The rule is not clearly or simply stated: Current rules are unclear as to the status of cylindrical packages, since such containers do not have a front or back.

Issue

Whether the LCB should amend WAC 314-55-106 to clarify the meaning of the term “principal display panel” as applied to cylindrical cannabis packaging.

Background

In 2018, the Board amended WAC 314-55-106 with permanent rules filed as WSR [18-11-005](#) to streamline packaging and labeling requirements for cannabis and cannabis products, reducing the amount of information required to be displayed on the packaging, and ensuring that products have enough space on the label to allow required product information be legibly displayed.

This rulemaking project in 2018 on product labeling was a collaboration with the Washington State Department of Health, and the Washington Poison Center (WPC), it addressed warning labels and requirements warning consumers about the cannabis

content of products and protecting children from accidental exposure to cannabis, especially infused edible cannabis products.

As a result, WAC 314-55-105 and 314-55-106 were amended to require all cannabis products to include the cannabis universal symbol displayed on the principal display panel of the product package. Additionally, these rule changes also required the reproducible "not for kids" warning symbol created by the WPC to also be placed on the principal display panel for infused edible cannabis products.

In 2020, the Board updated the cannabis [Packaging and Labeling Guide](#) with illustrations and descriptions consistent with WAC 314-55-106, showing how the principal display panel is determined for different styles of cannabis packaging:

Principal Display Panel

The principal display panel is always the front panel of the immediate container or of any outer container or wrapping, which bear(s) the labeling designed to be most prominently displayed, shown, presented, or examined under conditions of retail sale. On a curved surface, it is the front main area and does not wrap around to the sides or the back of the packaging or labeling. Generally, the front of the package that contains logo(s) and branding.

"Immediate container" means the external container holding the cannabis product. A package may have more than one principal display panel and, if so, all principal display panels must be properly labeled.

Dotted lines below represent the front of the immediate container(s) and its principal display panel(s):



IMPORTANT! On packages with a hang tag area, licensees may use that portion of the package as the primary display panel to place the required symbol(s) as long as the hang tag portion is not removed when the product is opened.

Analysis

When making a recommendation to the Board regarding a petition for rulemaking, the Director's Office Staff considers the following factors to the extent practicable:

- LCB’s statutory authority and obligations;
- Alignment with the LCB’s policy goals and priorities;
- The immediacy of the safety, environmental, or security concern raised;
- Potential impact to public health outcomes;
- The potential impact on criminal activity;
- Level of public interest;
- Whether the problems or issues are already under consideration by the LCB in other rulemaking issues;
- Merits of the petition; and
- Equity impacts.

Accepting the rule petition does not mean the LCB would begin developing rules, but rather provides an opportunity for the LCB to solicit and gather feedback from the public to assess whether and how a regulation should be revised to ensure the most favorable outcomes. If the Board accepts a petition, the collaborative rulemaking process will be initiated, consistent with the [Administrative Procedures Act \(APA\)](#).

The board has clear authority under RCW [69.50.345\(7\)](#) to determine the nature, form, and capacity of all containers to be used by licensees to contain cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products, and the labeling requirements for these products.

The term “principal display panel” is commonly used in the food industry and other businesses to describe the position of labeling on packaged foods and other consumer products, and is defined in WAC [314-55-106\(3\)](#) as “the portion(s) of the surface of the immediate container, or of any outer container or wrapping, which bear(s) the labeling designed to be most prominently displayed, shown, presented, or examined under conditions of retail sale.”

In addition to this rule definition of “principal display panel,” the Board’s existing cannabis packaging and labeling guide provides more direction about the meaning of principal display panel as applied to a cylindrical cannabis package: “On a curved surface, it is the front main area and does not wrap around to the sides or the back of the packaging or labeling.” The illustrations presented in the packaging and labeling guide (and shown in the illustrations included above) show the principal display panel on the cylinder of the package, illustrated with the principal display panel shown prominently.

The petition requests a rule amendment to WAC 314-55-106 to clarify that principal display panel is “the oblong portion of the cylinder versus the top or bottom”, and states that the effect of the requested rule change would be that cannabis processors “could compliantly sell pre-roll tubes with the warning symbol appropriately placed on the cylinder of the tube.” Under existing rules, the principal display panel must already appear on the curved, or oblong, surface of cylindrical packages such as tubes. And, in turn, the universal cannabis warning symbol must appear on this principal display panel positioned on the curved surface of the cylinder, and not the top or bottom of the cylinder as the petition suggests. WAC 314-55-106(3) requires the position of the principal display panel

to be “designed to be most prominently displayed“ which would not include the opposite curved surface of the cylinder or the ends of a narrow tube-shaped package suitable for packaging a single pre-roll cannabis joint.

The cannabis warning symbol shows consumers immediately with a clear graphic that an item at hand is a cannabis product. The cannabis warning symbol delivers this warning to any person who encounters the product even after it has been purchased and has left the store shelves. Without clear presentation of the warning label, lack of a prominently displayed labeling could increase the likelihood of unintended cannabis exposure to children.

As show in the illustrations above, the universal cannabis warning symbol for cylindrical packaging must appear on the principal display panel, meaning it must be positioned on the oblong, or curved, surface of the package. The request of the petition change to the meaning of the term “principal display panel” to allow the universal warning symbol to appear on the oblong side of the cylinder is not necessary, as the warning label must already appear on the principal display panel.

Divisional, Interagency, Intergovernmental, DEIB, Social Equity, and Other Impacts

Divisional

Licensing

No identified impact.

Enforcement & Education

No identified impact.

Finance

No identified impact.

Information Technology/Infrastructure

No identified impact.

Public Health/Prevention

The cannabis warning symbol on the packaging informs consumer that the package contains a cannabis product, thereby reducing the likelihood of accidental exposure.

Interagency

Department of Health

No identified impact.

Labor & Industries

No identified impact.

Intergovernmental

Tribes

No identified impact.

DEIB, Social Equity



No identified impact.

Recommendation

For the reasons described above, Director’s Office staff recommend that consistent with RCW 34.05.330(1)(b), the Board deny Michael Lucero’s petition for amending of rules submitted on April 29, 2024.

Board Action

After considering the recommendation of Director’s Office staff, the Board accepts/denies the petition for rulemaking received from Michael Lucero on April 29, 2024.

_____ Accept <input checked="" type="checkbox"/> Deny		<u>6.18.2024</u> Date
_____ Accept <input checked="" type="checkbox"/> Deny	 Ollie Garrett, Board Member	<u>6.18.2024</u> Date
_____ Accept _____ Deny	<i>Not Present</i> Jim Vollendroff, Board Member	<u>6.18.2024</u> Date

Attachments

1. Email from Michael Lucero
2. Rule petition form.