

**WSR 24-16-126  
PROPOSED RULES  
LIQUOR AND CANNABIS  
BOARD**

[Filed August 6, 2024, 11:19 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-13-129.

Title of Rule and Other Identifying Information: Rule language is being proposed to amend sections of Title 314-55 WAC to implement E2SSB 5367 (chapter 365, Laws of 2023), concerning the regulation of products containing THC, codified as RCW 69.50.101, 69.50.1025, 69.50.326, 69.50.346, and enacted on July 23, 2023. Rule language is also being proposed in WAC 314-55-095 to implement SHB 1249, (chapter 9, Laws of 2024), regarding limits on the possession and sale of cannabis products, codified as RCW 69.50.360, enacted on June 9, 2024.

Several sections of chapter 314-55 WAC require modifications to align the changes resulting from the legislation, as follows: WAC 314-55-010 Definitions, 314-55-095 Cannabis servings and transaction limits, 314-55-102 Quality assurance and quality control testing, 314-55-105 Packaging and labeling, 314-55-106 Cannabis warning symbol requirement, and 314-55-109 Cannabinoid additives.

Hearing Location(s): On September 11, 2024, at 10:00 a.m. All public liquor and cannabis board (board) activity will be held in a "hybrid" environment. This means that the public will have options for in-person or virtual attendance. The board room headquarters building at 1025 Union Avenue, Olympia, WA 98504 will be open for in-person attendance and the public may also log in using a computer or a device, or call in using a phone, to listen to the meeting through the Microsoft Teams application. The public may provide verbal comments during the specified public comment and rules hearing segments. TVW also regularly airs these meetings. Please note that although the board room will be staffed during a meeting, board members and agency participants may continue to appear virtually. For more information about board meetings, please visit <https://lcb.wa.gov/Boardmeetings/> Board meetings.

Date of Intended Adoption: No earlier than September 25, 2024.

Submit Written Comments to: Cassidy West, Policy and Rules Manager, P.O. Box 48030, Olympia, WA 98504-3080, email [rules@lcb.wa.gov](mailto:rules@lcb.wa.gov), fax 360-704-5027, beginning August 6, 2024, 12:00 p.m., by September 11, 2024, 12:00 p.m.

Assistance for Persons with Disabilities: Contact Anita Bingham, ADA coordinator, human resources, phone 360-664-1739, fax 360-664-9689, TTY 711 or 1-800-833-6388, email [anita.bingham@lcb.wa.gov](mailto:anita.bingham@lcb.wa.gov), by September 4, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules are intended to implement the statutory changes resulting from the passage of E2SSB 5367, which mandates stricter regulations on products containing tetrahydrocannabinols (THC) due to increasing concerns about public health and safety, and sets guidelines for THC content in consumable products by providing clear distinctions between hemp and cannabis products under state law. The bill specifically targets the regulation of THC concentrations and product packaging and labeling to mitigate the risks of overconsumption and accidental ingestion, particularly by minors. It also creates a new section explicitly banning the produc-

tion, manufacturing, sale, or distribution of synthetic and semi-synthetic cannabinoids.

The proposed rule also includes language reflecting the statutory changes resulting from SHB 1249, (chapter 9, Laws of 2024), regarding the limits on the sale and possession of retail cannabis products. The bill introduces a new category for low-dose liquid cannabis products, allowing cannabis retailers to sell larger quantities in a single transaction. However, the current regulations create obstacles for consumers looking to purchase and companies wanting to produce these products in liquid form. For instance, Initiative 502 limited the volume of liquid cannabis products to 72 ounces regardless of the THC content. This means that a consumer interested in a low-dose cannabis beverage can only buy a limited amount, while someone purchasing a different liquid cannabis product can buy the maximum 72 ounces even if it contains higher THC levels. The current regulatory framework does not support the development of low-THC cannabis products, leading to a bias towards high-THC products. The proposed rules amend WAC 314-55-095 Cannabis servings and transaction limits, to allow for the sale of low-THC beverages, consistent with SHB 1249.

The proposed rules will:

1. Establish maximum allowable THC content in cannabis products to ensure consumer safety.
2. Introduce more stringent labeling requirements to provide clearer information on THC content.
3. Adjust quality control testing requirements to include testing for additional THC compounds, as defined in RCW 69.50.204.
4. Align transaction limits for cannabis-infused products in liquid form with state law, authorizing retailers to sell 200 milligrams of THC within a cannabis-infused product in liquid form, to a retail customer, if the product is packaged in units containing no more than four milligrams of THC per unit. The authorization is in addition to the current authorization for licensed retailers and their employees to sell specified amounts of different cannabis products to a retail customer in a single transaction.

Several sections of chapter 314-55 WAC require modifications to align the changes resulting from the legislation, as follows:

1. **WAC 314-55-010 Definitions:** References to new and existing definitions in statute or rule are added to the definitions to ensure consistency with the legislation being implemented. The following definitions from RCW 69.50.101 are referenced: "Cannabis," "cannabis products," "CBD concentration," "cannabis concentrates," "cannabis-infused products," "package," "THC concentration," and "unit." The following definitions from RCW 69.50.204 are referenced: "Tetrahydrocannabinols" and "synthetic cannabinoid." A new definition of "total THC" is created. "Total THC" means any THC, as defined in chapter 69.50 RCW, that is detected during the product testing process that exceeds the established threshold, measured in mg/g, taking into account the conversion from acidic to neutral form. A new definition for "WSDA" is added referring to the Washington state department of agriculture.

2. **WAC 314-55-095 Cannabis servings and transaction limits:** The proposed rules limit the maximum amount of THC that may be in a single serving to 10 mg of active delta-9 THC, and limit the maximum amount of THC that may be in a single package to 100 mg of active delta-9 THC. These limits are consistent with current industry standards and products available on the market. A new requirement is proposed limiting the amount of any additional single THC compound to not exceed 0.5 mg/g per serving and the combined concentration of additional THC com-

pounds to one mg per serving. "Unit" was replaced with "package" to align with new statutory definitions of "package" and "unit" created by the legislation. New limits to implement SHB 1249 (chapter 9, Laws of 2024) related to low-THC beverages are added.

3. **WAC 314-55-102 Quality assurance and quality control testing:** Testing for THC is only required specifically for delta-9 THC and delta-9 THCA, as these are the most predominant naturally occurring cannabinoid in the plant; the proposed rules do not necessitate testing for any additional specific THC compounds. Despite the legislation broadening the definition of "THC concentration" to encompass the range of compounds falling under the statutory definition of "tetrahydrocannabinols," the levels of other THC compounds, such as delta-8 THC and THCV, remain insignificantly low (less than one percent by weight). Furthermore, research on cannabinoid compounds remains limited. A new requirement is added mandating testing and reporting test results for every THC compound that is labeled, advertised, or marketed as part of the product. The term "potency analysis" is replaced by "cannabinoid concentration analysis" to align with WSDA regulations outlined in new chapters 16-309 and 16-310 WAC. The equation for calculating total THC is adjusted to reflect the new definition in WAC 314-55-010. Total THC must be calculated for delta-9 THC, and must also be individually calculated for any additional THC compound detected above 0.2 mg/g. The calculation for total delta-9 THC by combining delta-9 THC with delta-9 THCA using a conversion of 0.877 applied to delta-9 THCA is maintained. Any additional THC compounds reported require specific conversion factors for the individual THC compounds based on the molar mass of the compound. This adjustment ensures that in the instance of testing for any other THC compound where the presence exceeds 0.2 mg/g, the formula is applicable for that specific compound. The term "certified laboratory" is clarified to specify the term means a laboratory that is certified by the board. The term "accreditation" is removed to reflect the transfer of cannabis testing laboratory accreditation to WSDA under 2SHB 2151 (chapter 69, laws of 2024), and reference to WSDA new accreditation rules (chapter 16-310 WAC) has been inserted. Additional changes to align with 2SHB 2151 will be addressed in a separate rule making. The term "container(s)" is replaced by "packaging" to align with statute.

4. **WAC 314-55-105 Packaging and labeling:** The term "containers" has been removed and "packaging" is used. New labeling requirement that a total THC concentration, using the formula in WAC 314-55-102, is calculated for any individual THC compound present in amounts greater than 0.2 mg/g. New language is added describing serving size for all products as "the amount of product per serving." References to "unit" are replaced with "package" for consistency with the new statutory definitions. For cannabis edibles in liquid form, "package" replaces "bottle" and indicates "measuring device" includes package cap.

5. **WAC 314-55-106 Cannabis warning symbol requirement:** The term "package" replaces "container(s)" to align with the new statutory definitions of "unit" and "package."

6. **WAC 314-55-109 Cannabinoid additives.** Requirements for using CBD as a product additive from a nonlicensed source are amended for consistency with the statutory definitions of "cannabis" and "cannabis products" modified by E2SSB 5367. References to "potency analysis" are replaced with "cannabinoid concentration analysis," consistent with the proposed changes in WAC 314-55-102. Clarifies that licensees must use a lab certified by the board to screen products.

Furthermore, the agency acronym "WSLCB" was replaced with "LCB," consistent with WSR 24-11-037, in the amended sections described above.

The anticipated effects of these rules are multi-faceted, aiming to enhance public health and safety through better-informed consumer choices and reduce risk of overconsumption and accidental exposure by:

1. Capping levels of specific THC compounds and enhancing labeling, consumers will be better able to manage dosage, potentially reducing incidents related to overconsumption.
2. Clearer, more informative labels will empower consumers to [make] informed decisions regarding their cannabis consumption.
3. Providing clear guidelines for cannabis licensees, aiding in compliance and enforcement efforts, thus ensuring that all market participants adhere to standardized practices regarding THC content in products.

Reasons Supporting Proposal: Aligns state regulations with recent legislative changes, enhancing consumer protection, and clarifying the status of hemp-derived products.

Statutory Authority for Adoption: RCW 69.50.342 and 69.50.345, as amended by E2SSB 5367 and SHB 1249.

Statute Being Implemented: E2SSB 5367 (chapter 365, laws of 2023) and SHB 1249 (chapter 9, Laws of 2024).

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington state liquor and cannabis board, governmental.

Name of Agency Personnel Responsible for Drafting: Cassidy West, Policy and Rules Manager, 1025 Union Avenue, Olympia, WA 98504, 360-878-4235; Implementation: Rebecca Smith, Licensing and Regulation, 1025 Union Avenue, Olympia, WA 98504, 360-664-1753; and Enforcement: Chandra Wax, Director of Enforcement and Education, 1025 Union Avenue, Olympia, WA 98504, 360-664-1726.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required under RCW 34.05.328 because the subject of the proposed rule making does not qualify as a significant legislative rule or other rule requiring a cost-benefit analysis under RCW 34.05.328 (5) (c).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

Is exempt under RCW 34.05.310 (4) (e).

Explanation of exemptions: This rule proposal is exempt because it involves agency actions that are mandated by statute, implementing E2SSB 5367, chapter 365, Laws of 2023, to regulate consumable products containing THCs.

Scope of exemption for rule proposal:

Is fully exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Agencies are required to consider costs imposed on business and costs associated with compliance with proposed rules. Agencies are not required under chapter 19.85 RCW to consider indirect costs not associated with compliance. Here, the board considered po-

tential administrative costs that a licensee may incur complying with the proposed rules.

The board applied the North American Industry Classification System (NAICS) codes 453998 for marijuana stores. The industry description for this code is presented in the table below, and can be accessed at <https://www.census.gov/library/publications/2017/econ/2017-naics-manual.html>.

The board applied a default cost when analyzing whether the rules would have a disproportionate impact on small businesses as defined in RCW 19.85.020(3).

2017 Industry NAICS Code	Estimated Cost of Compliance	Industry Description	NAICS Code Title	Minor Cost Estimate	1% of Avg Annual Payroll (Threshold)	0.3% of Avg Annual Gross Business Income (Threshold)
453998	\$2000	Marijuana stores, medicinal and recreational	All Other Miscellaneous Store Retailers (except Tobacco Stores)	\$5,304.30	\$3,265.02 2021 Dataset pulled from ESD	\$5,304.40 2018 Dataset pulled from DOR

As the table demonstrates, the estimated cost of compliance does not exceed the thresholds for any of the license types. Therefore, implementation of these rules are not anticipated to result in more-than-minor costs on businesses as defined in RCW 19.85.020(2).

A copy of the detailed cost calculations may be obtained by contacting Cassidy West, 1025 Union Avenue, Olympia, WA 98504, phone 360-878-4235, fax 360-704-5027, TTY 711 or 1-800-833-6388, email [rules@lcb.wa.gov](mailto:rules@lcb.wa.gov).

August 6, 2024  
David Postman  
Chair

**OTS-5416.4**

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

**WAC 314-55-010 Definitions.** The following definitions apply for the purpose of this chapter in addition to the definitions provided in RCW 69.50.101.

(1) "Applicant" or "cannabis license applicant" means any person or business entity who is considered by the ((WSLCB)) LCB as a true party of interest in a cannabis license, as outlined in WAC 314-55-035. However, for purposes of determining an application's priority under RCW 69.50.331 (1) (a), only the person or business entity that is applying for the license will be considered the applicant.

(2) "Batch" means a quantity of cannabis-infused product containing material from one or more lots of cannabis.

(3) "Business name" or "trade name" means the name of a licensed business as used by the licensee on signs and advertising.

(4) "Cannabis" has the meaning provided in RCW 69.50.101.

(5) "Cannabis concentrates" has the meaning provided in RCW 69.50.101.

(6) "Cannabis-infused products" has the meaning provided in RCW 69.50.101.

(7) "Cannabis mix" means an intermediate lot that contains multiple strains of useable cannabis and is chopped or ground so no particles are greater than 3 mm.

(8) "Cannabis mix infused" or "mix infused" means an end product that contains cannabis mix and may contain other intermediate products or useable cannabis.

(9) "Cannabis mix packaged" or "mix packaged" means an end product containing only cannabis mix and no other product types.

(10) "Cannabis products" has the meaning provided in RCW 69.50.101.

(11) "Cannabis strain" means a pure breed or hybrid variety of Cannabis reflecting similar or identical combinations of properties such as appearance, taste, color, smell, cannabinoid profile, and potency.

(12) "CBD concentration" has the meaning provided in RCW 69.51A.010.

(13) "Characterizing flavor" means a noticeable taste, other than one of cannabis, resulting from an additive or combination of additives including, but not limited to, fruit, spice, herbs, alcohol, candy, or menthol, or that is noticeable before or during consumption of the cannabis product.

~~((5))~~ (14) "Child care center" means an entity that regularly provides child day care and early learning services for a group of children for periods of less than 24 hours licensed by the Washington state department of early learning under chapter 170-295 WAC.

~~((6))~~ (15) "Consultant" means an expert who provides advice or services in a particular field, whether a fee is charged or not. A consultant who is in receipt of, or has the right to receive, a percentage of the gross or net profit from the licensed business during any full or partial calendar or fiscal year is a true party of interest and subject to the requirements of WAC 314-55-035. A consultant who exercises any control over an applicant's or licensee's business operations is also subject to the requirements of WAC 314-55-035(4).

~~((7))~~ (16) "Cooperative" means a group of more than one, but no more than four qualified medical cannabis patients and/or designated providers who share responsibility for growing and processing cannabis only for the medical use of the members of the cooperative.

~~((8))~~ (17) "Domicile" means a person's true, fixed, primary permanent home and place of habitation and the tax parcel on which it is located. It is the place where the person intends to remain and to which the person expects to return when the person leaves without intending to establish a new domicile elsewhere.

~~((9))~~ (18) "Elementary school" means a school with a physical location for early education that provides the first four to eight years of basic education and recognized by the Washington state superintendent of public instruction.

~~((10))~~ (19) "Employee" means any person performing services on a licensed premises for the benefit of the licensee whether or not such person is compensated by the licensee.

~~((11))~~ (20) "End product" means a cannabis product that requires no further processing prior to retail sale.

~~((12))~~ (21) "Financier" means any person or entity, other than a banking institution, that provides money as a gift or loans money to the applicant/business and expects to be paid back the amount of the loan with or without reasonable interest.

~~((13))~~ (22) "Game arcade" means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under ~~(twenty-one)~~ 21 years of age are not restricted.

~~((14))~~ (23) "Harvest" means the cannabis plant material derived from plants of the same strain that were cultivated at the same licensed location and gathered at the same time.

~~((15))~~ (24) "Immature plant or clone" means a cannabis plant or clone that has no flowers, is less than 12 inches in height, and is less than 12 inches in diameter.

~~((16))~~ (25) "Intermediate product" means cannabis flower lots or other material lots that have been converted by a cannabis processor to a cannabis mix lot, cannabis concentrate or cannabis-infused product that must be or are intended to be converted further to an end product.

~~((17))~~ (26) "LCB" means the Washington state liquor and cannabis board.

(27) "Library" means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.

~~((18))~~ (28) "Licensed premises" means all areas of a premises where the licensee has leasehold rights as listed in the property lease submitted to the board. Any vehicle assigned for the purposes of transporting cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products shall be considered an extension of the licensed premises.

~~((19))~~ (29) "Licensee" or "cannabis licensee" means any person or entity that holds a cannabis license, or any person or entity who is a true party of interest in a cannabis license, as outlined in WAC 314-55-035.

~~((20))~~ (30) "Lot" means either of the following:

(a) The flowers from one or more cannabis plants of the same strain. A single lot of flowers cannot weigh more than five pounds; or

(b) The trim, leaves, or other plant matter from one or more cannabis plants. A single lot of trim, leaves, or other plant matter cannot weigh more than 15 pounds.

~~((21))~~ (31) "Lozenge" means a cannabis-infused product such as a hard candy, mint, pastille, tablet, or similar type of edible product that is generally swallowed whole, chewed and swallowed, or dissolved in the mouth.

~~((22) "Cannabis strain" means a pure breed or hybrid variety of Cannabis reflecting similar or identical combinations of properties such as appearance, taste, color, smell, cannabinoid profile, and potency.~~

~~(23) "Cannabis mix" means an intermediate lot that contains multiple strains of useable cannabis and is chopped or ground so no particles are greater than 3 mm.~~

~~(24) "Cannabis mix infused" or "mix infused" means an end product that contains cannabis mix and may contain other intermediate products or useable cannabis.~~

~~(25) "Cannabis mix packaged" or "mix packaged" means an end product containing only cannabis mix and no other product types.~~

~~(26))~~ (32) "Member," except as that term is used in relation to registered cooperatives, means a principal or governing person of a given entity including, but not limited to: LLC member/manager, president, vice president, secretary, treasurer, CEO, director, stockholder, partner, general partner, limited partner. This includes all spouse-

ses of all principals or governing persons named in this definition and referenced in WAC 314-55-035.

~~((27))~~ (33) "Package" has the meaning provided in RCW 69.50.101.

(34) "Paraphernalia" means items used for the storage or use of useable cannabis, cannabis concentrates, or cannabis-infused products, such as, but not limited to, lighters, roach clips, pipes, rolling papers, bongos, and storage containers. Items for growing, cultivating, and processing cannabis, such as, but not limited to, butane, lights, and chemicals are not considered "paraphernalia."

~~((28))~~ (35) "Pesticide" means, but is not limited to: (a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest; (b) any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and (c) any spray adjuvant. Pesticides include substances commonly referred to as herbicides, fungicides, insecticides, and cloning agents.

~~((29))~~ (36) "Perimeter" means a property line that encloses an area.

~~((30))~~ (37) "Plant" means a cannabis plant.

~~((31))~~ (38) "Plant canopy" means the square footage dedicated to live plant production, such as maintaining mother plants, propagating plants from seed to plant tissue, clones, vegetative or flowering area. Plant canopy does not include areas such as space used for the storage of fertilizers, pesticides, or other products, quarantine, office space, etc.

~~((32))~~ (39) "Playground" means a public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a city, county, state, federal government, or metropolitan park district.

~~((33))~~ (40) "Product(s) otherwise taken into the body" means a cannabis-infused product for human consumption or ingestion intended for uses other than inhalation, oral ingestion, or external application to the skin.

~~((34))~~ (41) "Public park" means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government, or metropolitan park district. Public park does not include trails.

~~((35))~~ (42) "Public transit center" means a facility located outside of the public right of way that is owned and managed by a transit agency or city, county, state, or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.

~~((36))~~ (43) "Recreation center or facility" means a supervised center that provides a broad range of activities and events intended primarily for use by persons under 21 years of age, owned and/or managed by a charitable nonprofit organization, city, county, state, federal government, or metropolitan park district.

~~((37))~~ (44) "Residence" means a person's address where he or she physically resides and maintains his or her abode.

~~((38))~~ (45) "Secondary school" means a high and/or middle school with a physical location: A school for students who have com-

pleted their primary education, usually attended by children in grades seven to 12 and recognized by the Washington state superintendent of public instruction.

~~((39))~~ (46) "Selling price" means the same meaning as in RCW 82.08.010, except that when the product is sold under circumstances where the total amount of consideration paid for the product is not indicative of its true value. Selling price means the true value of the product sold as determined or agreed to by the ~~((WSLCB))~~ LCB. For purposes of this subsection:

(a) "Product" means cannabis, cannabis concentrates, useable cannabis, or cannabis-infused products; and

(b) "True value" means market value based on sales at comparable locations in the state of the same or similar product of like quality and character sold under comparable conditions of sale to comparable purchasers. In the absence of such sales of the same or similar product, true value means the value of the product sold as determined by all of the seller's direct and indirect costs attributed to the product.

~~((40))~~ (47) "Synthetic cannabinoid" includes any chemical compound identified in RCW 69.50.204 (c) [(3)] (30) [(dd)] (i) or by the pharmacy quality assurance commission under RCW 69.50.201.

(48) "Terpenes" means a class of compounds that impart smell, taste, or both occurring in the cannabis plant which consist of a carbon skeleton derived from isoprene units. The word "terpene" may include, but is not limited to, the following:

(a) "Botanical terpenes" means constituents derived from a spice, fruit, vegetable or vegetable juice, edible yeast, herb, bark, bud, root, or leaf or similar plant material. Their significant function in cannabis products is flavoring. This includes:

(i) Essential oil, which is natural oil typically obtained by distillation and possessing the characteristic fragrance of the plant or other source from which it is extracted;

(ii) Oleoresin, which is a natural or artificial mixture of essential oils and a resin;

(iii) Distillate; or

(iv) Any product of roasting, heating, or enzymolysis which contains terpenes.

(b) "Synthetic terpenes" means any terpene that does not occur in the cannabis plant, or in other botanical sources, and is produced through chemical manipulation in a laboratory or similar facility.

(c) "Terpenoids" means the natural products and related compounds formally derived from isoprene units, or "isoprenoids," that have the same meaning as that found in the current version of the International Union of Pure and Applied Chemistry (IUPAC) and as hereafter amended.

~~((41))~~ (49) "Tetrahydrocannabinols" has the meaning provided in RCW 69.50.204.

(50) "Total THC" means any tetrahydrocannabinol, as defined in chapter 69.50 RCW, identified in the product testing process measured in milligrams per gram, taking into account the conversion from acidic to neutral form.

(51) "THC concentration" has the meaning provided in RCW 69.50.101.

(52) "Unit" (~~means an individually packaged cannabis-infused solid or liquid product meant to be eaten or swallowed, not to exceed 10 servings or 100 milligrams of active tetrahydrocannabinol (THC), or Delta 9~~) has the meaning provided in RCW 69.50.101.

~~((42) "WSLCB" means the Washington state liquor and cannabis board.)~~

(53) "WSDA" means the Washington state department of agriculture.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

**WAC 314-55-035 Qualifying for a cannabis license.** A cannabis license must be issued in the name(s) of the true party(ies) of interest. The board may conduct an investigation of any true party of interest who exercises control over the applicant's business operations. This may include financial and criminal background investigations.

(1) **True parties of interest.** True parties of interest must qualify to be listed on the license, and meet residency requirements consistent with this chapter. For purposes of this title, "true party of interest" means:

Entity	True party(ies) of interest
Sole proprietorship	Sole proprietor
General partnership	All partners
Limited partnership, limited liability partnership, or limited liability limited partnership	All general partners All limited partners
Limited liability company (LLC)	All LLC members All LLC managers
Privately held corporation	All corporate officers and directors (or persons with equivalent title) All stockholders
Multilevel ownership structures	All persons and entities that make up the ownership structure
Any entity(ies) or person(s) with a right to receive revenue, gross profit, or net profit, or exercising control over a licensed business	Any entity(ies) or person(s) with a right to receive some or all of the revenue, gross profit, or net profit from the licensed business during any full or partial calendar or fiscal year  Any entity(ies) or person(s) who exercise(s) control over the licensed business
Nonprofit corporations	All individuals and entities having membership rights in accordance with the provisions of the articles of incorporation or bylaws

(2) A married couple may not be a true party of interest in more than five retail cannabis licenses, more than three producer licenses, or more than three processor licenses. A married couple may not be a true party of interest in a cannabis retailer license and a cannabis

producer license or a cannabis retailer license and a cannabis processor license.

(3) The following definitions apply to this chapter unless the context clearly indicates otherwise:

(a) "Control" means the power to independently order, or direct the management, managers, or policies of a licensed business.

(b) "Financial institution" means any bank, mutual savings bank, consumer loan company, credit union, savings and loan association, trust company, or other lending institution under the jurisdiction of the department of financial institutions.

(c) "Gross profit" means sales minus the cost of goods sold.

(d) "Net profit" means profits minus all other expenses of the business.

(e) "Revenue" means the income generated from the sale of goods and services associated with the main operations of business before any costs or expenses are deducted.

(4) For purposes of this chapter, "true party of interest" does not include (this is a nonexclusive list):

(a) A person or entity receiving payment for rent on a fixed basis under a lease or rental agreement. Notwithstanding, if there is a common ownership interest between the applicant or licensee, and the entity that owns the real property, the board may investigate all funds associated with the landlord to determine if a financier relationship exists. The board may also investigate a landlord in situations where a rental payment has been waived or deferred.

(b) A person who receives a bonus or commission based on their sales, so long as the commission does not exceed 10 percent of their sales in any given bonus or commission period. Commission-based compensation agreements must be in writing.

(c) A person or entity contracting with the licensee(s) to receive a commission for the sale of the business or real property.

(d) A consultant receiving a flat or hourly rate compensation under a written contractual agreement.

(e) A person with an option to purchase the applied for or licensed business, so long as no money has been paid to the licensee under an option contract or agreement for the purchase or sale of the licensed business, or a business that is applying for a license.

(f) Any business or individual with a contract or agreement for services with a licensed business, such as a branding or staffing company, will not be considered a true party of interest, as long as the licensee retains the right to and controls the business.

(g) A financial institution.

(5) **Notification.**

(a) Except as provided in this subsection (4) (a) (i), (ii), and (iii), after licensure the licensee must continue to disclose the source of all funds to be invested in the licensed business, including all funds obtained from financiers, prior to investing the funds into the licensed business.

(i) Revenues of the licensed cannabis business that are reinvested in the business do not require notification or vetting by the board.

(ii) Proceeds of a revolving loan where such loan has been approved by the board within the three previous years do not need to be vetted by the board, unless the source of the funds has changed or the approved loan amount has increased.

(iii) If the source of funds is an identified true party of interest on the license, or a previously approved financier associated

with the license, or a previously approved revolving loan, the board will allow these funds to be used upon receipt of an application to use such funds. The board will then investigate the source of funds. If the board cannot verify the source of funds after reasonable inquiry, or the board determines that the funds were obtained in a manner in violation of the law, the board may take actions consistent with the provisions of this chapter.

(b) Licensees must receive board approval before making any ownership changes consistent with WAC 314-55-120.

(c) Noncompliance with the requirements of this section may result in action consistent with this chapter.

(6) **Disclosure agreements and intellectual property.**

(a) Licensed cannabis businesses may enter into agreements consistent with the provisions of RCW 69.50.395.

(b) Notwithstanding the foregoing, no producer or processors may enter into an intellectual property agreement with a retailer.

(7) **Financiers.**

(a) Consistent with WAC 314-55-010(~~((11))~~) (21), a financier is any person or entity, other than a financial institution or a government entity, that provides money as a gift, a grant, or loans money to an applicant, business, or both, and expects to be paid back the amount of the loan, with or without reasonable interest.

(b) A financier may not receive an ownership interest, control of the business, a share of revenue, gross profits or net profits, a profit sharing interest, or a percentage of the profits in exchange for a loan or gift of funds, unless the financier, if directly involved in the loaning of funds, receives board approval and has qualified on the license as a true party of interest.

(c) Washington state residency requirements do not apply to financiers who are not also a true party of interest, but all financiers must reside within the United States.

(d) The board will conduct a financial and criminal background investigation on all financiers.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

**WAC 314-55-080 Medical cannabis endorsement. (1) A medical cannabis endorsement added to a cannabis retail license allows the cannabis retail licensee to:**

(a) Sell cannabis for medical use to qualifying patients and designated providers; and

(b) Provide cannabis at no charge, at their discretion, to qualifying patients and designated providers.

(2) Qualifying patients between 18 and 21 years of age with a recognition card may enter and remain on the premises of a retail outlet holding a medical cannabis endorsement and may purchase products for their personal medical use. Qualifying patients who are under the age of 18 with a recognition card and who accompany their designated providers may enter and remain on the premises of a retail outlet holding a medical cannabis endorsement, but may not purchase products for their personal medical use. Only a designated provider may purchase products for a qualifying patient under the age of 18 who holds a valid recognition card.

(3) **To maintain a medical cannabis endorsement in good standing, a cannabis retailer must:**

- (a) Follow all rules adopted by the department of health regarding retail sales of medical cannabis;
- (b) Have a consultant on staff in accordance with department of health rules;
- (c) Prohibit the medical use of cannabis by anyone at the retail outlet at all times, including medical use by qualifying patients;
- (d) Maintain at all times, a representative assortment of cannabis products necessary to meet the needs of qualified patients and designated providers;
- (e) Not market cannabis concentrates, useable cannabis, or cannabis-infused products in a way that make them especially attractive to minors;
- (f) Demonstrate the ability to enter qualifying patients and designated providers in the medical cannabis authorization database established by the department of health;
- (g) Issue recognition cards and agree to enter qualifying patients and designated providers into the database in compliance with the department of health standards;
- (h) Keep records to document the validity of tax exempt sales as prescribed by the department of revenue for a minimum of five years. For the documentation requirements in RCW 69.50.375 (3)(e), licensees are not required to separately keep copies of the qualifying patient's or designated provider's recognition card because this information is stored in the medical cannabis authorization database;
- (i) Train employees on the following:
  - (i) Procedures regarding the recognition of valid authorizations and the use of equipment to enter qualifying patients and designated providers into the medical cannabis authorization database;
  - (ii) Recognition of valid recognition cards; and
  - (iii) Recognition of strains, varieties, THC concentration, CBD concentration, and THC to CBD ratios of cannabis concentrates, useable cannabis, and cannabis-infused products available for sale when assisting qualifying patients and designated providers at the retail outlet.

(4) ~~((A cannabis retailer holding a medical cannabis endorsement may sell products with a THC concentration of 0.3 percent or less.))~~ The licensee may ~~((also))~~ provide ~~((these))~~ cannabis products complying with chapter 246-70 WAC at no charge to qualifying patients or designated providers.

(5) **Unlicensed practice of medicine.** No owner, employee, or volunteer of a retail outlet and holding a medical cannabis endorsement may:

- (a) Offer or undertake to diagnose or cure any human or animal disease, ailment, injury, infirmity, deformity, pain, or other condition, physical or mental, real or imaginary, by use of cannabis products or any other means or instrumentality; or
- (b) Recommend or suggest modification or elimination of any course of treatment that does not involve the medical use of cannabis products.

(6) Failure to comply with subsections (3) and (5) of this section may result in suspension or revocation of the medical cannabis endorsement.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

**WAC 314-55-095 Cannabis servings and transaction limitations.**

Personal possession limits and transaction limits are detailed in RCW 69.50.360 and 69.50.4013.

(1) For persons age 21 and older and qualifying patients or designated providers who are not entered into the medical cannabis authorization database, cannabis serving and transaction limitations are as follows:

(a) **Single serving.** A single serving of a cannabis-infused product must not exceed 10 milligrams of active (~~tetrahydrocannabinol (THC), or Delta 9~~) delta-9 THC. Additional tetrahydrocannabinol compounds other than delta-9 THC may be present in the product, but any single tetrahydrocannabinol compound other than delta-9 THC must not exceed 0.5 milligrams per serving, and the combined concentration of additional tetrahydrocannabinol compounds must not exceed 1.0 milligram per serving.

~~(b) ((Maximum number of servings. The maximum number of servings in))~~ **Single package.** Any one single (~~unit~~) package of cannabis-infused product meant to be eaten or swallowed or otherwise taken into the body (~~is 10 servings or 100 milligrams of active THC, or Delta 9~~) must not exceed 100 milligram of active delta-9 THC.

~~(c) Single concentrate unit.~~ A single unit of cannabis concentrate cannot exceed one gram.

~~((e))~~ **(d) Transaction limits.**

(i) A single transaction is limited to:

(A) One ounce of useable cannabis;

(B) ~~((Sixteen))~~ 16 ounces of cannabis-infused product meant to be eaten or swallowed in solid form;

(C) ~~((Seven))~~ 7 grams of cannabis-infused extract or cannabis concentrate for inhalation; ~~((and))~~

(D) ~~((Seventy-two))~~ 72 ounces of cannabis-infused product in liquid form for oral ingestion or applied topically to the skin(~~;~~ ~~and~~

~~(E) Ten units of a cannabis-infused product otherwise taken into the body), unless the product is packaged in individual units containing no more than 4 milligrams of active delta-9 THC per unit; and~~

(E) 200 mg of active delta-9 THC within a cannabis-infused product in liquid form if the product is packaged in individual units containing no more than 4 milligrams of active delta-9 THC per unit.

(ii) A licensee or employee of a licensee is prohibited from conducting a transaction that facilitates an individual in obtaining more than the personal possession amount.

(2) For qualifying patients and designated providers who are entered into the medical cannabis authorization database, serving and transaction limits are as follows:

(a) **Single serving.** Except as provided in chapter 246-70 WAC, a single serving of a cannabis-infused product meant to be eaten, swallowed, or applied must not exceed 10 milligrams of active (~~tetrahydrocannabinol (THC), or Delta 9~~) delta-9 THC. Additional tetrahydrocannabinol compounds other than delta-9 THC may be present in the product, but any additional single tetrahydrocannabinol compound other than delta-9 THC must not exceed 0.5 milligrams per serving, and the combined concentration of additional tetrahydrocannabinol compounds must not exceed 1.0 milligram per serving.

(b) ~~((Maximum number of servings.))~~ **Single package.** Except as provided in chapter 246-70 WAC, ~~((the maximum number of servings in~~

~~any one single unit)) a single package of cannabis-infused product meant to be eaten, swallowed or applied ((is 10 servings or)) must not exceed 100 milligrams of active delta-9 THC((, or Delta-9)).~~

~~(c) **Single concentrate unit.** A single unit of cannabis concentrate cannot exceed one gram.~~

~~((e)) (d) **Transaction limitation.** A single transaction by a retail store with a medical cannabis endorsement to a qualifying patient or designated provider who is entered into the medical cannabis database is limited to three ounces of useable cannabis, 48 ounces of cannabis-infused product meant to be eaten or swallowed in solid form, 21 grams of cannabis-infused extract or cannabis concentrate for inhalation, and 216 ounces of cannabis-infused product in liquid form meant to be eaten or swallowed, and up to 200 mg of active delta-9 THC within a cannabis-infused product in liquid form meant to be eaten or swallowed if product is packaged in individual units containing no more than 4 milligrams of active delta-9 THC per unit.~~

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

**WAC 314-55-102 Quality assurance and quality control.** (1) ~~((Lab certification and accreditation for)) **Certified laboratory quality control testing.** To become certified, a third-party lab must meet the board's certification and accreditation requirements as described in WAC 314-55-0995 and this chapter before conducting quality control tests required under this section. Cannabis licensees must use a laboratory certified by the board (certified laboratory) to conduct quality control testing required under this chapter. Prior to becoming certified, laboratories must be accredited by the WSDA as specified in chapter 16-309 WAC.~~

~~(a) ((Certified labs must be)) Licensees must use certified laboratories to conduct ((the following)) testing on cannabis and cannabis products in the following required fields of testing:~~

- ~~(i) Water activity;~~
- ~~(ii) ((Potency)) Cannabinoid concentration analysis;~~
- ~~(iii) Foreign matter inspection;~~
- ~~(iv) Microbiological screening;~~
- ~~(v) Mycotoxin screening;~~
- ~~(vi) Pesticide screening; and~~
- ~~(vii) Residual solvent screening.~~

~~(b) Certified labs may be certified for heavy metal testing. Certified labs must comply with the guidelines for each quality control field of testing described in this chapter if they offer that testing service.~~

~~(c) Certified labs may reference samples for mycotoxin, heavy metal, or pesticide testing by subcontracting for those fields of testing.~~

**(2) General product quality control testing requirements for certified labs.**

~~(a) Certified labs must record an acknowledgment of the receipt of samples from producers or processors. Certified labs must also verify if any unused portion of the sample is destroyed after the completion of required testing.~~

~~(b) Certified labs must report quality control test results directly to the board in the required format.~~

(c) Product must not be converted, transferred, or sold by the licensee until the required tests are reported to the board and the licensee.

(d) Certified labs must fail a sample if the results for any limit test are above allowable levels regardless of whether the limit test is required in the testing tables in this chapter.

(e) Certified labs must test samples on an "as is" or "as received" basis.

(f) For the purposes of this section, limits have been written to the number of significant digits that certified laboratories are expected to use when reporting to the board and on associated certificates of analysis.

(3) **Quality control analysis and screening.** The following analysis and screening are only required for samples that have not been previously tested, or that have failed quality control testing.

(a) **~~((Potency))~~ Cannabinoid concentration analysis.**

~~(i) ((Certified labs must test and report the following cannabinoids to the board when testing for potency:))~~ A cannabinoid concentration analysis is required to determine the concentration of cannabinoid compounds present in cannabis and cannabis products. The results of the cannabinoid concentration analysis must be reported to the board in the state's traceability system in the required format. The cannabinoid concentration analysis must include testing for at least the following cannabinoids:

(A)

Cannabinoid	Lower Limit of Quantitation (mg/g)	CAS #
CBD	1.0	13956-29-1
CBDA	1.0	1244-58-2
$\Delta^9$ -THC	1.0	1972-08-3
$\Delta^9$ -THCA	1.0	23978-85-0

(B) Any THC compound that is labeled, advertised, or marketed as part of the product;

(C) Total delta-9 THC;

~~((C))~~ (D) Total THC for tetrahydrocannabinol compounds other than delta-9 THC;

(E) Total CBD.

(ii) Calculating total THC and total CBD.

(A) Total delta-9 THC must be calculated as follows, where M is the mass or mass fraction of delta-9 THC or delta-9 THCA:  $M \text{ total delta-9 THC} = M \text{ delta-9 THC} + (0.877 \times M \text{ delta-9 THCA})$ .

(B) Total THC for tetrahydrocannabinol compounds other than delta-9 that are present in an amount greater than 0.2 mg/g must be calculated as follows, where M is the mass or mass fraction of the neutral (THC) or acidic form (THCA) of the tetrahydrocannabinol compound:  $M \text{ total THC} = M \text{ THC} + (\text{molar mass of THC compound} \times M \text{ THCA})$ .

(C) Total CBD must be calculated as follows, where M is the mass or mass fraction of CBD and CBDA:  $M \text{ total CBD} = M \text{ CBD} + (0.877 \times M \text{ CBDA})$ .

(iii) Regardless of analytical equipment or methodology, certified labs must accurately measure and report the acidic (THCA and CBDA) and neutral (THC and CBD) forms of the cannabinoids.

(b) **Water activity testing.** The sample fails quality control testing for water activity if the results exceed the following limits:

- (i) Water activity rate of more than 0.65  $a_w$  for useable cannabis;
- (ii) Water activity rate of more than 0.85  $a_w$  for solid edible products.

(c) **Foreign matter screening.** The sample fails quality control testing for foreign matter screening if the results exceed the following limits:

- (i) Five percent of stems 3 mm or more in diameter; or
- (ii) Two percent of seeds or other foreign matter; or
- (iii) One insect fragment, one hair, or one mammalian excreta in sample.

(d) **Microbiological screening.** The sample and the related population fails quality control testing for microbiological screening if the results exceed the following limits:

Unprocessed Plant Material	Colony Forming Unit per Gram (CFU/g)
Bile Tolerant Gram Negative bacteria (BTGN)	1.0 * 10 <sup>4</sup>
Shiga toxin-producing Escherichia coli (STEC)	<1
Salmonella spp.	<1
Processed Plant Material	Colony Forming Unit per Gram (CFU/g)
Bile Tolerant Gram Negative bacteria (BTGN)	1.0 * 10 <sup>3</sup>
Shiga toxin-producing Escherichia coli (STEC)	<1
Salmonella spp.	<1

(e) **Mycotoxin screening.** The sample and the related population fails quality control testing if the results exceed the following limits:

Mycotoxin	µg/kg	CAS #
Aflatoxins (Sum of Isomers)	20.	
• Aflatoxin B1		1162-65-8
• Aflatoxin B2		7220-81-7
• Aflatoxin G1		1165-39-5
• Aflatoxin G2		7241-98-7
Ochratoxin A	20.	303-47-9

(f) **Residual solvent screening.** Except as otherwise provided in this subsection, a sample and the related population fails quality control testing for residual solvents if the results exceed the limits provided in the table below. Residual solvent results of more than 5,000 ppm for class three solvents, 50 ppm for class two solvents, and 2 ppm for any class one solvents as defined in *United States Pharmacopoeia USP 30 Chemical Tests / <467> - Residual Solvents (USP <467>)* not listed in the table below fail quality control testing. When residual solvent screening is required, certified labs must test for the solvents listed in the table below at a minimum.

Solvent	µg/g	ppm (simplified)	CAS #
Acetone	5.0 * 10 <sup>3</sup>	5000	67-64-1

Solvent	µg/g	ppm (simplified)	CAS #
Benzene	2.0	2	71-43-2
Butanes (Sum of Isomers)	5.0 * 10 <sup>3</sup>	5000	
• n-butane			106-97-8
• 2-methylpropane (isobutane)			75-28-5
Cyclohexane	3.9 * 10 <sup>3</sup>	3880	110-82-7
Chloroform	2.0	2	67-66-3
Dichloromethane	6.0 * 10 <sup>2</sup>	600	75-09-2
Ethanol	5.0 * 10 <sup>3</sup>	5000	64-17-5
Ethyl acetate	5.0 * 10 <sup>3</sup>	5000	141-78-6
Heptanes (Single Isomer)	5.0 * 10 <sup>3</sup>	5000	
• n-heptane			142-82-5
Hexanes (Sum of Isomers)	2.9 * 10 <sup>2</sup>	290	
• n-hexane			110-54-3
• 2-methylpentane			107-83-5
• 3-methylpentane			96-14-0
• 2,2-dimethylbutane			75-83-2
• 2,3-dimethylbutane			79-29-8
Isopropanol (2-propanol)	5.0 * 10 <sup>3</sup>	5000	67-63-0
Methanol	3.0 * 10 <sup>3</sup>	3000	67-56-1
Pentanes (Sum of Isomers)	5.0 * 10 <sup>3</sup>	5000	
• n-pentane			109-66-0
• methylbutane (isopentane)			78-78-4
• dimethylpropane (neopentane)			463-82-1
Propane	5.0 * 10 <sup>3</sup>	5000	74-98-6
Toluene	8.9 * 10 <sup>2</sup>	890	108-88-3
Xylenes (Sum of Isomers)	2.2 * 10 <sup>3</sup>	2170	
• 1,2-dimethylbenzene (ortho-)			95-47-6
• 1,3-dimethylbenzene (meta-)			108-38-3
• 1,4-dimethylbenzene (para-)			106-42-3

(g) **Heavy metal screening.** Heavy metal screening is required for all DOH compliant product as described in chapter 246-70 WAC. Heavy metal screening is optional for non-DOH compliant product; however, heavy metal limits provided below apply to all products. Any product exceeding the provided limits is subject to recall and destruction. The board may conduct random or investigation driven heavy metal screening for compliance. A sample and related quantity of product fail quality control testing for heavy metals if the results exceed the limits provided in the table below.

Metal	µg/g
Arsenic	2.0
Cadmium	0.82
Lead	1.2
Mercury	0.40

(h) **Pesticide screening.** For purposes of pesticide screening, a sample and the related quantity of cannabis is considered to have

passed if it meets the standards described in WAC 314-55-108 and applicable department of agriculture rules.

(4) **Required quality control tests.** The following quality control tests are required for each of the cannabis products described below. Licensees and certified labs may opt to perform additional quality control tests on the same sample.

(a) **Cannabis flower.** Cannabis flower requires the following quality control tests:

Product	Test(s) Required
Cannabis flower	1. Water activity testing 2. ((Potency)) <u>Cannabinoid concentration</u> analysis 3. Foreign matter inspection 4. Microbiological screening 5. Mycotoxin screening 6. Pesticide screening

(b) If cannabis flower will be sold as useable flower, no further testing is required.

(c) **Intermediate products.** Intermediate products must meet the following requirements related to quality control testing:

(i) All intermediate products must be homogenized prior to quality assurance testing;

(ii) For the purposes of this section, a batch is defined as a single run through the extraction or infusion process;

(iii) Cannabis mix must be chopped or ground so no particles are greater than 3 mm; and

(iv) Intermediate products require the following quality assurance tests:

Intermediate Product Type	Tests Required
Cannabis mix	1. Water activity testing 2. ((Potency)) <u>Cannabinoid concentration</u> analysis 3. Foreign matter inspection 4. Microbiological screening 5. Mycotoxin screening 6. Pesticide screening
Concentrate or extract made with hydrocarbons (solvent based made using n-butane, isobutane, propane, heptane, or other solvents or gases approved by the board of at least 99% purity)	1. ((Potency)) <u>Cannabinoid concentration</u> analysis 2. Mycotoxin screening 3. Residual solvent test 4. Pesticide screening
Concentrate or extract made with a CO <sub>2</sub> extractor like hash oil	1. ((Potency)) <u>Cannabinoid concentration</u> analysis 2. Mycotoxin screening 3. Residual solvent test 4. Pesticide screening
Concentrate or extract made with ethanol	1. ((Potency)) <u>Cannabinoid concentration</u> analysis 2. Mycotoxin screening 3. Residual solvent test 4. Pesticide screening

Intermediate Product Type	Tests Required
Concentrate or extract made with approved food grade solvent	1. ((Potency)) <u>Cannabinoid concentration</u> analysis 2. Microbiological screening 3. Mycotoxin screening 4. Residual solvent test 5. Pesticide screening
Concentrate or extract (nonsolvent) such as kief, hash, rosin, or bubble hash	1. ((Potency)) <u>Cannabinoid concentration</u> analysis 2. Microbiological screening 3. Mycotoxin screening 4. Pesticide screening
Infused cooking oil or fat in solid form	1. ((Potency)) <u>Cannabinoid concentration</u> analysis 2. Microbiological screening 3. Mycotoxin screening 4. Pesticide screening

(d) **End products.** All cannabis, cannabis-infused products, cannabis concentrates, cannabis mix packaged, and cannabis mix infused sold from a processor to a retailer require the following quality assurance tests:

End Product Type	Tests Required
Infused solid edible	1. ((Potency)) <u>Cannabinoid concentration</u> analysis 2. Water activity testing
Infused liquid (like a soda or tonic)	1. ((Potency)) <u>Cannabinoid concentration</u> analysis
Infused topical	1. ((Potency)) <u>Cannabinoid concentration</u> analysis
Cannabis mix packaged (loose or rolled)	1. ((Potency)) <u>Cannabinoid concentration</u> analysis
Cannabis mix infused (loose or rolled)	1. ((Potency)) <u>Cannabinoid concentration</u> analysis
Concentrate or cannabis-infused product for inhalation	1. ((Potency)) <u>Cannabinoid concentration</u> analysis

(e) End products consisting of only one intermediate product that has not been changed in any way are not subject to ((potency)) cannab-  
inoid concentration analysis.

(5) Useable flower, a batch of cannabis concentrate, or a batch of cannabis-infused product may not be sold until the completion and successful passage of required quality control testing, except:

(a) Licensees may wholesale and transfer batches or quantities of cannabis flower and other material that will be extracted, and cannabis mix and nonsolvent extracts, for the purposes of further extraction prior to completing required quality control testing.

(b) Business entities with multiple locations licensed under the same UBI number may transfer cannabis products between the licensed locations under the same UBI number prior to quality control testing.

(c) Licensees may wholesale and transfer failed batches or quantities of cannabis flower to be extracted pursuant to subsection (6) of this section, unless failed for tests that require immediate destruction.

(6) **Failed test samples.**

(a) Upon approval by the board, failed quantities of cannabis or batches may be used to create extracts. After processing, the extract

must pass all quality control tests required in this section before it may be sold, unless failed for tests that require immediate destruction.

(b) Retesting. A producer or processor must request retesting. The board may authorize the retest to validate a failed test result on a case-by-case basis. The producer or the processor requesting the retest must pay for the cost of all retesting.

(c) Remediation. Remediation is a process or technique applied to quantities of cannabis flower, lots, or batches. Remediation may occur after the first failure, depending on the failure, or if a retest process results in a second failure. Pesticide failures may not be remediated.

(i) Producers and processors may remediate failed cannabis flower, lots, or batches so long as the remediation method does not impart any toxic or harmful substance to the useable cannabis, cannabis concentrates, or cannabis-infused product. Remediation solvents or methods used on the cannabis product must be disclosed to:

(A) A licensed processor;

(B) The producer or producer/processor who transfers the cannabis products;

(C) A licensed retailer carrying cannabis products derived from the remediated cannabis flower, lot, or batch; or

(D) The consumer upon request.

(ii) The entire quantity of cannabis from which the failed sample(s) were deducted must be remediated.

(iii) No remediated quantity of cannabis may be sold or transported until quality control testing consistent with the requirements of this section is completed.

(iv) If a failed quantity of remediated cannabis is not remediated or reprocessed in any way after a first failure, it cannot be retested. Any subsequent certificates of analysis produced without remediation or reprocessing of the failed quantity of cannabis will not supersede the original compliance testing certificate of analysis.

(7) **Referencing.** Certified (~~(labs)~~) laboratories may reference samples for mycotoxins, heavy metals, and pesticides testing to other certified labs by subcontracting for those fields of testing. (~~(Labs)~~) Laboratories must record all referencing to other labs on a chain-of-custody manifest that includes, but is not limited to, the following information: Lab name, certification number, transfer date, address, contact information, delivery personnel, sample ID numbers, field of testing, and receiving personnel.

(8) Certified (~~(labs)~~) laboratories are not limited in the amount of useable cannabis and cannabis products they may have on their premises at any given time, but a certified (~~(lab)~~) laboratory must have records proving all cannabis and cannabis-infused products in the certified lab's possession are held only for the testing purposes described in this chapter.

(9) A certificate of analysis issued by a certified (~~(lab)~~) laboratory for any cannabis product subject to the requirements of this chapter that has not already been transferred to a retail location expires 12 calendar months after issuance.

(10) The board, or its designee, may request that a licensee or a certified lab provide an employee of the board or their designee samples of cannabis or cannabis products, or samples of the growing medium, soil amendments, fertilizers, crop production aids, pesticides, or water for random or investigatory compliance checks. Samples may be

randomly screened and used for other quality control tests deemed necessary by the board.

(11) All cannabis products produced, processed, distributed, or sold after the effective date of these rules, must comply with these rules and this chapter; however, postharvest products in the possession of or being processed by a licensee that do not comply with these rules as of their effective date may be sold, distributed, or both within a reasonable period of time, determined by the board.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

**WAC 314-55-105 Cannabis product packaging and labeling.** (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 21 through the ingestion of potentially hazardous items including, but not limited to, cannabis concentrates, useable cannabis, and cannabis-infused products.

(c) "Especially appealing to persons under the age of 21" 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 21;

(iv) Symbols or celebrities that are commonly used to market products to persons under the age of 21;

(v) Images of persons under the age of 21; or

(vi) Similarities to products or words that refer to products that are commonly associated or marketed to persons under the age of 21.

(d) "Cannabis concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant *Cannabis* and having a THC concentration greater than 10 percent, consistent with RCW 69.50.101(~~(+z)~~).

(e) "Cannabis edible" means a cannabis-infused product as defined in RCW 69.50.101(~~(+ff)~~).

(f) "Cannabis 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 cannabis product intended to affect normal structure and function in humans, characterized by the means by which a cannabis

product acts to maintain such structure or function, or describe the general well-being from consumption of a cannabis product, consistent with the guidance provided in 21 U.S.C. Sec. 343(6).

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

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

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

(b) Cannabis 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 21 from accidental exposure to cannabis concentrates.

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

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

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

(i) The business or trade name and the (~~(nine)~~) 9-digit Washington state unified business identifier (UBI) number of the cannabis 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)~~) Total THC, calculated individually for each tetrahydrocannabinol compound present in amounts greater than 0.2 mg/g, as defined in WAC 314-55-010, using the formula referenced in WAC 314-55-102;

(v) Total CBD (cannabidiol) meaning the concentration of CBDA and CBD, using the formulas referenced in WAC 314-55-102;

(~~(+v)~~) (vi) Medically and scientifically accurate and reliable information about the health and safety risks posed by cannabis use;

(~~(+vi)~~) (vii) 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)~~) (viii) 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 cannabis concentrates are processed.

(f) Cannabis 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 cannabis has curative or therapeutic effects;
- (iv) Depicts a person under the age of 21 consuming cannabis; or
- (v) Is especially appealing to persons under 21 years of age as defined in subsection (1)(c) of this section.
- (g) The following statements must be included on all cannabis 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 cannabis;"
  - (iv) The cannabis universal symbol as provided in WAC 314-55-106; and
  - (v) "Smoking is hazardous to your health."
- (h) Product labeling for cannabis concentrates identified as compliant cannabis 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 cannabis 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 cannabis 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) **Cannabis edibles in solid form.** The following standards apply to all packaging and labeling of cannabis edibles in solid form:
  - (a) (~~Containers or~~) Packaging containing cannabis edibles in solid form must protect the product from contamination. (~~Containers or~~) Packaging must not impart any toxic or harmful substance to the cannabis edibles in solid form.
  - (b) Cannabis 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 21 from accidental exposure to cannabis edibles in solid form.
  - (c) Cannabis-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) Cannabis 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 cannabis 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 cannabis edibles in solid form must clearly and visibly provide all of the following information:

(i) The business or trade name and the ~~((nine))~~ 9-digit Washington state unified business identifier (UBI) number of the licensees that produced and processed the cannabis or cannabis 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, the amount of product per serving, 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))~~ package must be prominently displayed;

(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)), calculated individually for each tetrahydrocannabinol compound present in amounts greater than 0.2 mg/g, as defined in WAC 314-55-010, using the formula ~~((s))~~ referenced in WAC 314-55-102;~~

(vi) 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 cannabis use;

~~((vii))~~ (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;

~~((viii))~~ (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.

(g) Labels for cannabis 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 cannabis has curative or therapeutic effects;

(iv) Depicts a person under the age of 21 consuming cannabis, or is especially appealing to persons under 21 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 cannabis 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 cannabis;"

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

and

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

(i) Product labeling for cannabis edibles in solid form identified as compliant cannabis 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 cannabis 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 cannabis 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) **Cannabis edibles in liquid form.** The following standards apply to all packaging and labeling of cannabis edibles in liquid form:

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

(b) Cannabis 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 21 from accidental exposure to cannabis edibles in liquid form.

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

(c) Cannabis 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 cannabis 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 cannabis edibles in liquid form must clearly and visibly provide all of the following information:

(i) The business or trade name and the (~~nine~~) 9-digit Washington state unified business identifier (UBI) number of the licensees that produced and processed the cannabis or cannabis 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, the amount of product per serving, 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)) must be prominently displayed;~~

(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;)) Total THC, calculated individually for each tetrahydrocannabinol compound present in amounts greater than 0.2 mg/g, as defined in WAC 314-55-010, using the formula referenced in WAC 314-55-102;~~

(v) 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 cannabis 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 cannabis 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 cannabis has curative or therapeutic effects;

(iv) Depicts a person under the age of 21 consuming cannabis, or is especially appealing to persons under 21 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 cannabis 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 cannabis;"

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

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

(h) Product labeling for cannabis edibles in liquid form identified as compliant cannabis 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 cannabis 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 cannabis 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 cannabis.** The following standards apply to all packaging and labeling of useable cannabis:

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

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

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

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

(i) The business or trade name and the ~~((nine))~~ 9-digit Washington state unified business identifier (UBI) number of the licensees that produced and processed the cannabis or cannabis 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;))~~ Total THC, calculated individually for each tetrahydrocannabinol compound present in amounts greater than 0.2 mg/g, as defined in WAC 314-55-010, using the formula referenced in WAC 314-55-102;

(v) 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 cannabis use.

(e) Labels for useable cannabis 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 cannabis has curative or therapeutic effects;

(iv) Depicts a person under the age of 21 consuming cannabis, or is especially appealing to persons under 21 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 cannabis. 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 cannabis;"

- (iv) The cannabis universal symbol as provided in WAC 314-55-106;  
and
- (v) "Smoking is hazardous to your health."
- (g) Product labeling for useable cannabis identified as compliant cannabis 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 cannabis 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 cannabis 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) **Cannabis mix.** Cannabis mix is defined in WAC 314-55-010(~~(+22)~~) (7) as an intermediate lot that contains multiple strains of useable cannabis and is chopped or ground so no particles are greater than 3 mm. The following standards apply to all packaging and labeling of cannabis mix:
- (a) (~~Containers or~~) Packaging containing cannabis mix must protect the product from contamination. (~~Containers or~~) Packaging must not impart any toxic or harmful substance to the cannabis mix.
  - (b) Cannabis mix must not be labeled as organic unless permitted by the U.S. Department of Agriculture consistent with the Organic Foods Production Act.
  - (c) Cannabis mix must comply with the version of NIST Handbook 130, Uniform Packaging and Labeling regulation adopted in chapter 16-662 WAC.
  - (d) Labels for cannabis mix must clearly and visibly provide all of the following information:
    - (i) The business or trade name and the (~~nine~~) 9-digit Washington state unified business identifier (UBI) number of the licensees that produced and processed the cannabis or cannabis 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;~~) Total THC, calculated individually for each tetrahydrocannabinol compound present in amounts greater than 0.2 mg/g, as defined in WAC 314-55-010, using the formula referenced in WAC 314-55-102;
    - (v) 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 cannabis use;

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

(e) Labels for cannabis 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 cannabis has curative or therapeutic effects;

(iv) Depicts a person under the age of 21 consuming cannabis, or is especially appealing to persons under 21 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 cannabis mix. The following warning statements must 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 cannabis;"

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

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

(g) Product labeling for cannabis mix identified as compliant cannabis 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 cannabis 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 cannabis 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) **Cannabis topicals.** The following standards apply to all packaging and labeling of cannabis topicals:

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

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

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

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

(i) The business or trade name and the ~~((nine))~~ 9-digit Washington state unified business identifier (UBI) number of the licensee that produced and processed the cannabis or cannabis 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;))~~ Total THC, calculated individually for each tetrahydrocannabinol compound present in amounts greater than 0.2 mg/g, as defined in WAC 314-55-010, using the formula referenced in WAC 314-55-102;

(v) 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 cannabis use; and

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

(e) Labels for cannabis 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 cannabis has curative or therapeutic effects;

(iv) Depicts a person under the age of 21 consuming cannabis ~~((r))~~ or is especially appealing to persons under 21 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 cannabis topicals. The following warning statements must be legible, unobscured, and visible to the consumer:

(i) "Unlawful outside Washington State;"

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

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

(g) Product labeling for cannabis topicals identified as compliant cannabis 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 cannabis 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 cannabis 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.

(9) **Accompanying materials.** Accompanying materials must be provided with a cannabis product or made available to the consumer purchasing cannabis products.

A producer or processor must provide 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 as follows:

(a) A statement disclosing all pesticides applied to the cannabis plants and growing medium during production of the useable cannabis or the base cannabis 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 cannabis concentrate during or after production.

(10) **Upon request materials.** A consumer may request the name of the certified lab and quality assurance test results for any cannabis or cannabis product. A retailer must provide the information upon request.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

**WAC 314-55-106 Cannabis warning symbol requirement.** The following requirements are in addition to the packaging and labeling requirements provided in WAC 314-55-105.

(1) Cannabis-infused products for oral ingestion sold at retail must be labeled on the principal display panel or front of the product package with the "not for kids" warning symbol ("warning symbol") created and made available in digital form to licensees without cost by the Washington poison center (WPC). The warning symbol may be found on the WPC's website.

(a) The warning symbol must be of a size so as to be legible, readily visible by the consumer, and effective to alert consumers and children that the product is not for kids, but must not be smaller than three-quarters of an inch in height by one-half of an inch in width; and

(b) The warning symbol must not be altered or cropped in any way other than to adjust the sizing for placement on the principal display panel or front of the product package, except that a licensee must use a black border around the edges of the white background of the warning

symbol image when the label or packaging is also white to ensure visibility of the warning symbol.

(c) Licensees may download the digital warning symbol from the WPC and print stickers, or purchase and use a sticker made available by the WPC, in lieu of incorporating the warning symbol on the label or packaging as required under subsection (1) of this section. If a licensee elects to use a warning symbol sticker, the sticker:

(i) Must meet all requirements of (a) and (b) of this subsection; and

(ii) Must not cover or obscure in any way labeling or information required on cannabis products by WAC 314-55-105.

(2) All cannabis products sold at retail must be labeled on the principal display panel or front of the product package with the cannabis universal symbol ("universal symbol") created and made available in digital form to licensees without cost by the ((WSLCB)) LCB. The digital file for the universal symbol is available on the ((WSLCB's)) LCB's website.

(a) The universal symbol must be of a size so as to be legible, readily visible by the consumer, and effective to alert consumers that the product is or contains cannabis, but must not be smaller than three-quarters of an inch in height by three-quarters of an inch in width;

(b) The universal symbol must not be altered or cropped in any way other than to adjust the sizing for placement on the principal display panel or front of the product package; and

(c) Licensees may download the digital universal symbol from the WSLCB's website and print stickers in lieu of incorporating the universal symbol on the label or packaging as required under (a) and (b) of this subsection. If a licensee elects to use a universal symbol sticker, the sticker:

(i) Must meet all requirements of this section; and

(ii) Must not cover or obscure in any way labeling or information required on cannabis products by WAC 314-55-105.

(3) For the purposes of this section, "principal display panel" means the portion(s) of the surface of the immediate ((~~container~~)) package or of any outer ((~~container~~)) package or wrapping, which bear(s) the labeling designed to be most prominently displayed, shown, presented, or examined under conditions of retail sale. "Immediate ((~~container~~)) package" means the external container holding the cannabis product.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

**WAC 314-55-109 Cannabinoid additives—Requirements, restrictions, and quality assurance testing.** (1) As provided in RCW 69.50.326 Licensed cannabis producers and licensed cannabis processors may use a cannabidiol (CBD) product obtained from a source not licensed under this chapter, provided the CBD product:

(a) ((Has a THC level of 0.3 percent or less; and)) Is not cannabis or a cannabis product, as defined in chapter 69.50 RCW; and

(b) Has been tested for contaminants and toxins by a testing laboratory accredited under this chapter and in accordance with testing standards established in this section.

(2) Licensed cannabis producers and licensed cannabis processors may use a CBD product obtained from a source not licensed under this chapter and chapter 69.50 RCW as an additive for the purpose of enhancing the CBD concentration of any product authorized for production, processing, and sale under this chapter. However, useable cannabis, except cannabis that is an intermediate product that will be converted into a cannabis-infused product or a cannabis concentrate, may not be treated or otherwise adulterated in any way including the addition of a CBD product consistent with the rules of this chapter. Except as allowed under this section, CBD product additives must be lawfully produced by, or purchased from, a producer or processor licensed under this chapter. The testing requirements for CBD products derived from cannabis produced by cannabis licensees are provided in WAC 314-55-102. The testing requirements in this section are required in addition to quality assurance testing otherwise required under this chapter for cannabis products.

(3) **Traceability requirements.** A licensee must enter CBD products obtained from a source not licensed under this chapter into the state traceability system and keep the information in the traceability system completely up to date, consistent with cannabis and cannabis product recordkeeping and traceability requirements in WAC 314-55-083. A licensee must keep CBD products obtained from a source not licensed under this chapter labeled and quarantined in an area separate from cannabis and cannabis products under video surveillance consistent with the requirements for controlled areas in WAC 314-55-083(3) until the CBD products successfully pass quality assurance testing or are destroyed due to failure of tests as provided in this section. At no time during the quarantine period can the product be handled or moved under any circumstances, except for purposes of deducting samples as required under this section, and is subject to auditing by the ((WSLCB)) LCB or its designee(s). CBD products obtained from a source not licensed under this chapter that fail quality assurance testing as provided in this section must not be added to any cannabis product and must be disposed of consistent with WAC 314-55-097 and the disposal logged into the traceability system consistent with WAC 314-55-083.

(4) **Testing requirements.** The following sample deduction and testing requirements apply to CBD products obtained from a source not licensed under this chapter. Such products must successfully pass quality assurance testing prior to being added to any cannabis product. Samples that fail quality assurance testing and the corresponding products that the samples were deducted from must be disposed of consistent with WAC 314-55-097.

(a) **Sample size and deduction requirements.** Licensed producers, licensed processors, certified labs, and their employees must adhere to the minimum sampling protocols as provided in this section. Samples must be deducted in a way that is most representative of the product the sample is deducted from. The minimum sample size for the testing requirements under this section for CBD products is one percent of the product as packaged by the manufacturer of the CBD product but in no case shall the sample be less than two grams. Licensees, certified labs, and their employees may not adulterate or change in any way the representative sample before the sample is tested.

(i) All samples must be collected/deducted in a sanitary environment using sanitary practices and ensure 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 chapters 16-165 and 16-167 WAC.

(ii) Persons collecting samples must wash their hands prior to collecting a sample, wear appropriate gloves, and must use sanitary utensils and storage devices when collecting samples.

(iii) Samples must be placed in a sanitary plastic or glass container and stored in a location that prevents the propagation of pathogens and other contaminants, such as a secure, low-light, cool and dry location.

(iv) The licensee must maintain the CBD products from which the sample was deducted in a secure, low-light, cool, and dry location to prevent the products from becoming contaminated or degraded prior to the CBD products being added or incorporated into cannabis products after successful passage of testing requirements.

(v) Each quality assurance sample must be clearly marked "quality assurance sample" and be labeled with the following information:

(A) The unique identifier for the product generated by the state traceability system;

(B) The name of the certified lab receiving the sample;

(C) The license number and business or trade name of the licensee sending the sample;

(D) The date the sample was collected; and

(E) The weight of the sample.

(vi) Certified labs may retrieve samples from a cannabis licensee's licensed premises and transport the sample(s) directly to the lab. Certified labs may also return any unused portion of the sample(s).

(b) **Required fields of testing.**

(i) (~~Potency testing.~~ Potency testing) **Cannabinoid concentration analysis.** Cannabinoid concentration analysis is required to confirm the product is ((less than 0.3 percent THC)) not cannabis or a cannabis product, as defined in chapter 69.50 RCW, contains detectable levels of CBD, and to ((determine)) measure the levels of THC, THC-A, CBD, and CBD-A in the product, as provided in WAC 314-55-102. Synthetic cannabinoids as defined in RCW 69.50.204 are prohibited under RCW 69.50.401 and any test result that suggests the presence of a synthetic cannabinoid must be immediately reported to the ((WSLCB)) board in the required format. The cannabinoid concentration analysis must be conducted consistent with the requirements under WAC 314-55-102.

~~((A) Certified labs must test and report the following cannabinoids to the WSLCB in the state traceability system when testing for potency:~~

~~(I) THCA;~~

~~(II) THC;~~

~~(III) Total THC;~~

~~(IV) CBDA;~~

~~(V) CBD; and~~

~~(VI) Total CBD.~~

~~(B) Calculating total THC and total CBD.~~

~~(I) Total THC must be calculated as follows, where M is the mass or mass fraction of delta-9 THC or delta-9 THCA: M total delta-9 THC = M delta-9 THC + (0.877 x M delta-9 THCA).~~

~~(II) Total CBD must be calculated as follows, where M is the mass or mass fraction of CBD and CBDA: M total CBD = M CBD + (0.877 x M CBDA).~~

~~(C) Regardless of analytical equipment or methodology used for testing, certified labs must accurately measure and report the acidic (THCA and CBDA) and neutral (THC and CBD) forms of the cannabinoids.~~

~~(D))~~ The following ~~((potency))~~ cannabinoid concentration analysis results fail quality control and assurance testing for the purposes of this section and the sample and corresponding product from which the sample was deducted must be disposed of consistent with this section and WAC 314-55-097:

~~((I))~~ (A) The CBD product ~~((tests above 0.3 percent THC))~~ is cannabis or a cannabis product, as defined in chapter 69.50 RCW;

~~((II))~~ (B) The CBD product does not contain any detectable ~~((amounts))~~ levels of CBD or CBD-A; and

~~((III))~~ (C) The sample test results indicate that a substance is present that is not THC, CBD, or inert substance which the THC or CBD is dissolved into.

**(ii) Pesticide screening.**

~~((Certified third-party labs))~~ Licensees must use a certified laboratory to screen for any pesticides that are not allowed and are designated as having the potential for misuse on a list created, maintained, and periodically updated by the department of health in consultation with the Washington state department of agriculture and the ~~((WSLCB))~~ LCB.

~~((WSLCB))~~ LCB, WSDA, other designee of the ~~((WSLCB))~~ LCB, or certified lab identifies a pesticide that is not allowed for use or application on cannabis under this chapter and is above the action levels provided in WAC 314-55-108, that sample and corresponding product from which the sample was deducted has failed quality assurance testing. A sample that tests at or above the action levels for pesticides consistent with WAC 314-55-108 fails pesticide testing requirements for the purposes of this section. A sample and corresponding product from which the sample was deducted that fails quality assurance testing under this section must be destroyed consistent with WAC 314-55-097.

~~((Certified third-party labs))~~ Cannabis licensees must also use certified laboratories to screen for pyrethrins and piperonyl butoxide (PBO) in samples of CBD products obtained from a source not licensed under this chapter. Certified ~~((third-party labs))~~ laboratories may also screen for additional pesticides not specifically required under this section and per the DOH list, however, any sample that tests at or above the action level for any pesticide(s) as established in WAC 314-55-108 fails the testing requirements under this section and must be disposed of consistent with WAC 314-55-097.

**(iii) Heavy metal screening.** For the purposes of heavy metal screening, a sample fails quality assurance testing and must be disposed of consistent with WAC 314-55-097 if it meets or exceeds the following limits:

Metal	Limit, µg/daily dose (5 grams)
Inorganic arsenic .....	10.0
Cadmium .....	4.1
Lead .....	6.0
Mercury .....	2.0

**(iv) Residual solvents screening.** ~~((Certified labs))~~ Cannabis licensees must use a certified laboratory to test for the solvents listed in the table below at a minimum. Except as otherwise provided in this subsection, a sample and corresponding product from which the sample was deducted fail quality assurance testing for residual sol-

vents and must be disposed of consistent with WAC 314-55-097 if the results meet or exceed the limits provided in the table below. Residual solvent results of more than 5,000 ppm for class three solvents, 50 ppm for class two solvents, and 2 ppm for class one solvents as defined in *United States Pharmacopoeia, USP 30 Chemical Tests / <467> - Residual Solvents (USP <467>)* not listed in the table below fail quality assurance testing.

Solvent	ppm
Acetone	5,000
Benzene	2
Butanes	5,000
Cyclohexane	3,880
Chloroform	2
Dichloromethane	600
Ethyl acetate	5,000
Heptanes	5,000
Hexanes	290
Isopropanol (2-propanol)	5,000
Methanol	3,000
Pentanes	5,000
Propane	5,000
Toluene	890
Xylene*	2,170

\* Usually 60% *m*-xylene, 14% *p*-xylene, 9% *o*-xylene with 17% ethyl benzene.

(v) **Microbiological screening.** The sample and corresponding product from which the sample was deducted fail quality assurance testing for microbiological screening and must be disposed of consistent with WAC 314-55-097 if the results exceed the following limits:

	Enterobacteria (bile-tolerant gram-negative bacteria)	<i>E. coli</i> (pathogenic strains) and <i>Salmonella spp.</i>
Unprocessed Plant Material	10 <sup>4</sup>	Not detected in 1g
Extracted or Processed Botanical Product	10 <sup>3</sup>	Not detected in 1g

(vi) **Mycotoxin screening.** The sample and corresponding product from which the sample was deducted fail quality assurance testing for mycotoxin screening and must be disposed of consistent with WAC 314-55-097 if the results exceed the following limits:

- (A) Total of Aflatoxin B1, B2, G1, G2: 20 µg/kg of substance; and
- (B) Ochratoxin A: 20 µg/kg of substance.

(5) **Test results reporting requirements.** Cannabis licensees must use a certified ((~~labs must~~)) laboratory to report all test results as required by this section into the state traceability system within 24 hours of completion of the tests.

(6) **Retesting.** At the request of the producer or processor, the ((WSLCB)) LCB may authorize a retest to validate a failed test result

on a case-by-case basis. All costs of the retest will be borne by the producer or the processor requesting the retest. ((Potency)) Retesting cannabinoid concentrations will not generally ((not)) be authorized.

(7) **Remediation.** Producers and processors may remediate failed products so long as the remediation method does not impart any toxic or deleterious substance to the CBD products obtained from a source outside the regulated system. Remediation solvents or methods used on the product must be disclosed to a licensed processor the producer or producer/processor transfers the products to; a licensed retailer carrying cannabis products derived from the remediated product; or consumer upon request. The product(s) the failed sample(s) were deducted from must be remediated using the same remediation technique. No remediated CBD products obtained from a source outside the regulated system may be sold, transported, or used in the processing of cannabis products until the completion and successful passage of quality assurance testing as required in this section.

(8) A licensee or certified lab that violates any of the provisions of this section is subject to disciplinary action, including possible summary suspension or revocation of the producer license, processor license, producer/processor license, or lab certification.