

Nevada Cannabis Compliance Board
Solicitation of Input on Packaging, Labeling, and Advertising Regulations
Possession and Sales Limit Regulations
October 18, 2023
Minutes

The Nevada Cannabis Compliance Board (CCB) held a public meeting for solicitation of input at 700 E. Warm Springs Rd., Las Vegas, Nevada and 1550 College Pkwy, Carson City, Nevada beginning at 10:00 a.m. on October 18, 2023.

Cannabis Compliance Board Members Present:

Riana Durrett

Deputy Director Michael Miles called the public workshop to order. Senior Deputy Attorneys General L. Kristopher Rath, Allison Herr, Emily Bordelove, Anthony Garasi, and Audit Supervisor Keoki Allen, Program Inspector Derek Entz and Chief of Inspection and Audit Kara Cronkhite were present on behalf of the CCB. Board Member Durrett joined the meeting via video conference.

The instructions to join the meeting via Zoom were read aloud.

I. Public Comment

Frank Hawkins appeared on behalf of Nevada Wellness Center clarified public and written comment will go to CCB and then go to hearing.

Bri Padilla, Executive Director of Chamber of Cannabis expressed gratitude for the workshops and concern that suggestions made at this and previous meetings are considered and suggested implementation of QR codes as a solution.

Katree Saunders on behalf of Americans for Safe Access; commented on the importance of sustainability of packaging, recycling and composting of waste to reduce environmental impact, and suggested developing educational programs to help consumers understand how to recycle packaging.

Deputy Director Miles stated that composting regulation will likely be presented to the Board in November for approval and QR codes and electronic transfer of labels have been approved for over a year and are approved for dispensaries to use.

II. Proposed Amendments and Additions to the Nevada Cannabis Compliance Regulations – Packaging, Labeling and Advertising

- A. Regulation 6.
- B. Regulation 7.
- C. Regulation 12.

Chief Cronkhite presented the proposed amendments to packaging and labeling requirements and added that she will open the discussion for public comment at different points.

If there is a regulation that someone would like to change that is not mentioned, those can be discussed at the end of the meeting. Chief Cronkhite added that proposed language and the source can also be sent to her directly or to the CCB or public comment.

Chief Cronkhite commented that regulations NCCR 6.010, NCCR 6.085, NCCR 6.120 and NCCR 7.025 are updated to align with new statutory allowances and NCCR 7.030 has language added to prevent cannabis-related accessories from being appealing to children.

Chief Cronkhite stated that public input was received on NCCR 7.050 regarding delivery limits, and this will be investigated.

Jillian Nelson NCCR 6.120 (d) *Shall not advertise or offer any cannabis or cannabis product as “free” or “donated” without a purchase in the same transaction:* does this mean dispensaries can give a zero-cost product to consumers as long as they purchase something at a dispensary? Chief Cronkhite clarified: when there is a “buy one get one free” promotion, as long as a purchase is made in the same transaction, the other items can be free with purchase. Ms. Nelson asked if producers and cultivators can also give zero-cost items to dispensaries to alleviate the current “penny out” system. Chief Cronkhite stated this will be investigated.

Amanda Connor requested clarification on NCCR 6.085 *accompanied written security measures:* is it intended to mean standard operating procedures or are written security measures needed at the entrances? NCCR 7.030 has no exemption for logos, unlike 12.015(5)(e) has the same language but provides an exemption.

Ed Alexander, SoL Cannabis Does NCCR 6.085 apply to emergency egress? Chief Cronkhite clarified that it applies to entrances and will clarify the language to state that it does not apply to an access point in a building that serves as emergency egress. Mr. Alexander asked if NCCR 6.010 will include consideration of revised packaging limits. Chief Cronkhite stated that the limits are defined by statute and there is no ability to change them.

Deputy Director Miles stated that a Bill Draft Request (BDR) and change by the legislature during session is needed to make that change.

Mr. Alexander NCCR 7.030 stated that licensed characters such as Pokemon and Star Wars appealed to children who are now thirty to forty years old and although the intent is that marketing should not be appealing to children, but if something in a dispensary seems cartoonish, it should not be the responsibility of the industry or regulators to police what happens inside homes.

Sara Adams, representing Planet 13 commented on NCCR 7.050: Provided specific suggestion that the current regulation ratio between the delivery limit and transaction limit is 5:1 and would like to keep the same ratio. Deputy Director Miles stated that the limits were put in place to provide for the safety of drivers, and the delivery limit will be reviewed again.

C. Regulation 12.

Chief Cronkhite stated that NCCR 12.010 clarifies the potency allowance for pills and removes subsection two which already exists in the packaging requirements. Because of this, some of that language is moved to 12.015. NCCR 12.015 is revised to remove redundancies and clarify packaging requirements for specific product types. The change to *This product contains cannabis* was already included in previous revisions and the *plus or minus 15 percent variance* was supposed to be moved into 12.015 but it was missed in error; our intention is to carry it to 12.015. NCCR 12.030, 12.035, 12.040, 12.045 were revised to remove redundancies and streamline labeling requirements.

Chief Cronkhite asked for public comment on 12.010 through 12.045.

Vice Chair Durrett thanked CCB for streamlining the regulations and thanked Amanda Connor for providing proposals for streamlining prior to the workshop. Requested to no longer require the labels at wholesale and allow Metrc tags to replace them; the risk of Metrc tag falling and leaving the product untagged should be the industry's risk.

Chief Cronkhite replied that she looked into the request to change child's "may include" a label and reviewed NRS 678B.520 which states, "Each cannabis establishment *shall* in consultation with the Board ensure products offered for sale are labeled clearly..." There's language that requires what they have to be labeled with, and the number of servings are required to be on the label. We moved things to packaging wherever possible and we are open to other suggestions. Chief Cronkhite will email these statutes to Vice Chair Durrett for review.

Vice Chair Durrett expressed that she did not intend for her suggestions on items on the label to be moved to packaging because it will not reduce redundancies or extra work. Chief Cronkhite replied that items were streamlined because they were listed on both packaging and labels, making it optional for packaging or labeling. Ingredients must be on the packaging, keeping consistent with FDA requirements.

Layke Martin representing Nevada Cannabis Association asked for clarification of the statutory limit related to the variance language in NCCR 12.010 and the change of language to 12.015 and stated that the change to additional verbiage from the printed label to packaging may result in additional expense, and the required verbiage is long to print on packaging; concerned that it properly conveys the message in a reasonable and legible manner.

Chief Cronkhite confirmed that the allowable limit will not be changed and asked if an allowance of 18 months would alleviate the concerns regarding costs. Ms. Martin replied that she would ask the operators if 18 months is sufficient time.

Ms. Martin raised concerns about exit bags and how to make them more environmentally friendly.

Dani Baranowski, Vice President of the Chamber of Cannabis requested clarification from CCB regarding exit bags at the point of sale and asked if products in opaque bottles, such as liquid cannabis or tinctures, can be placed in paper bags if they are in childproof packaging. Chief Cronkhite replied that once these products are open, they are no longer childproof and do not meet requirements in 16 CFR part 1700 and stated that the bottles can be sent to CCB for review. Ms. Baranowski thanked CCB for their work in guiding the industry and offered her assistance.

Aaron Bayko Director of Compliance for Deep Roots Harvest asked at what stage the Metrc ID number is captured and referenced 12.030(1)(b), stating this may make it necessary for prepackaging to redo all packaging multiple times, making it inefficient. Chief Cronkhite stated that CCB will clarify the language in a way that is not cumbersome for cultivators.

Jillian Nelson agreed with concerns raised by Aaron Bayko and said that the requirement for each package or unit of cannabis to be marked with the Package ID assigned by Metrc prior to transfer to dispensaries is very cumbersome. Ms. Nelson suggested that marking the parent batch and pre-labeling would be more efficient.

Amanda Connor raised concern about unintended consequences in the language in NCCR 12.010 *A cannabis sales facility shall only sell cannabis or cannabis products in a single package which must not contain...* and said that there may be intent to allow bulk packaging to go from the store to the cannabis lounge, but that language does not allow it and suggested there be additional language to indicate “for sale to a consumer” so that packaging can go from the sales facility to the lounge without packaging limitations. Ms. Connor asked for clarification of NCCR 12.010(d) variances. Chief Cronkhite stated this is the requirement for amounts in a single package, and the packaging language is on NCCR 12.015 and the fifteen percent variance allowance is in that regulation. Ms. Connor asked about the title of NCCR 12.035 (*Cannabis production facility: Required labeling of cannabis products before sale to retail store*) and how this impacts production facilities that may be selling to other production facilities; are labels not required? Ms. Connor mentioned NCCR 12.040 and NCCR 12.045 – labeling of single-use cannabis products – and stated that there is information provided to consumers for ready to use products. Ms. Connor asked for confirmation that if the list of ingredients is on the packaging, it does not also have to be on the label. Chief Cronkhite confirmed that is correct.

Ed Alexander expressed agreement on prior discussion regarding labeling versus packaging requirements and the need to minimize duplication of language on the labels and packaging because this will result in larger labels and overwritten packaging. Mr. Alexander also commented on forms of consumption for exit packaging or child-resistant packaging, e.g. a cartridge is useless without the addition of a battery; a concentrate cannot be used by itself. Mr. Alexander said that existing C.F.R. Part 1700-compliant push-and-turn jars should be allowed to be sold without exit bags as long as the container can be reclosed over and over again. Mr. Alexander mentioned that recycling the exit bags would be a good solution. Chief Cronkhite replied that there are dispensaries that reward customers who bring exit bags back for reuse, and there is no statute that prohibits this. Mr. Alexander asked for clarification on the number of exit bags that can be repurposed; understanding that more than one cannot be returned. Chief Cronkhite stated that she will look into this.

Sara Adams from Planet 13 commented on NCCR 12.015(5)(c) which states *When sold at a cannabis sales facility, be placed into a package or directly packaged in opaque, child-resistant packaging in accordance with 16 C.F.R. Part 1700* and said that the standards specified in subsections three or four appear to be left over language and can probably be removed from subsection 5(c) because the language does not relate to edible products. Ms. Adams wants to understand the purpose of using the Metrc tag number instead of the production run number or batch/lot number and does not see the benefit of adding the Metrc number. Chief Cronkhite responded that this was a request received from industry representatives and that CCB does not have a preference. The idea was proposed with the idea it would take up less space on the label than batch and lot numbers, but if the industry prefers to use the production run numbers, to submit that input and it will be changed if everyone agrees. Ms. Adams requested specifics on when the Metrc tags should be added. In regard to 12.030(c), the cannabinoid and terpenoid profiles: CCB proposed addition of “detected” in front of cannabinoid profile, but not in front of terpenoid, and is not in 12.040(e) and requested consistency in the proposed label requirements for cannabinoids and terpenes. Planet 13 would appreciate if the requirements could be limited to the top three terpenes. Ms. Adams discussed the implementation of an electronic labeling system and QR codes.

Ms. Adams asked for guidance on the number of decimal places that should be shown – should it be the hundreds, rounded or truncated, and suggested rounding to the nearest hundreds place. Ms. Adams expressed that it is unclear whether the label should be separate from the packaging, suggesting that if the label is permanently affixed, the information is shown on the label and not the packaging. Chief Cronkhite acknowledged the suggestion. Ms. Adams asked if the retail label verbiage can be changed from *and* to *or*, or if the units can be removed entirely. Chief Cronkhite introduced Inspector Derek Entz who stated that all products that are sold must have a net weight and would be amenable to allow indication of grams only on a package if flower had a net weight of, for example, 3.5 grams. Net weight is a Federal NIST handbook requirement from the Department of Weights and Measures for non-flower products. Inspector Entz stated he will look into whether it is a requirement for one or both units. Chief Cronkhite asked if there were additional public comments.

Ed Alexander commented that he would like to ensure that there is no conflict between Metrc and labeling requirements, and clarity on net weight of the product or including packaging. Mr. Alexander stated that the use of *and/or* language would be helpful in the regulations.

Audit Supervisor Keoki Allen discussed labeling, putting the package ID number on the label and the transfer manifest. Ms. Allen stated that the transfer manifest has two sections: one includes the net, and the other includes the gross, which is inclusive of all packaging, the shipping container, etc. She clarified that the net is the cannabis product and the gross includes everything. Ms. Allen said the language will be updated to show that it is the source packaging coming from cultivation and production. Source packaging shows who produced, harvest batch, production batch. Ms. Allen clarified that the source ID was used because that is the ID number used to pull the information.

Chief Cronkhite continued with NCCR 12.050, stating that redundancies were removed and it is updated to include a requirement to provide the soil report or lab COA to consumers upon their request. This report could be an electronic medium such as QR code or any preferred way of providing the report.

Chief Cronkhite stated that 12.070 is revised to provide clarification on advertising requirements and asked for public comment on NCCR 12.050 or 12.070

Ed Alexander stated that 12.050(d) contains no more than 10 milligrams of THC – it may be necessary to make consumers aware of the plus/minus 15 percent variance and it may be necessary to be more granular when consumption lounges open.

Chief Cronkhite said that the disclosures and warnings are from statutes and will look into the possibility of revision.

Jillian Nelson commented on soil amendment reports being available for edible and noted that reports are not required for where and how flower is grown. Ms. Nelson suggested that soil amendment reports are not needed for edibles.

Chief Cronkhite asked if there were any additional online comments; there were no public comments.

III. Solicitation of Input for Possible Amendment to Nevada Cannabis Compliance Regulation 11 or any Regulation Affecting Cannabis Independent Testing Laboratories.

Deputy Director Miles moved to discuss item number III, regulations 6, 7 or 12 or any regulation specifically affecting packaging, labeling and advertising of cannabis. Deputy Director Miles asked for public comment in Las Vegas, Carson City or online; there were no public comments.

IV. Public Comment

Deputy Director Miles moved to discuss item number IV and asked for public comment in Las Vegas, Carson City or online; there were no public comments. Deputy Director Miles thanked those in attendance and those who provided input.

V. Adjournment

Deputy Director Miles adjourned the meeting at 11:08 a.m.