Meeting Notes

RULES ADVISORY COMMITTEE

Relating to Passage of HB 2546
Packaging and Labeling Standards for Inhalant Delivery Systems

December 7, 2015 2:00 pm – 4:00 pm
Portland State Office Building (PSOB), Room 221

Attendees: Sandy Giffin (Oregon Poison Center), Karen Girard (Oregon Health Authority), Heather Gramp (Oregon Health Authority), Bruce Gutelius (Oregon Health Authority), Kim La Croix (Oregon Health Authority), Letitia Mack (Oregon Health Authority), Susan Miles (Oregon Health Authority), Shawn Miller (NW Grocery Association/Miller & Associates), Matt Minahan (NW Vapor Association), Shannon O'Fallon (Department of Justice), Tanya Phillips (Jackson County Public Health), Penny Pritchard (Deschutes County Public Health), Luis Rodriguez (American Cancer Society Action Network), Jesse Sweet (Oregon Liquor Control Commission), Becky Wright (Multnomah County Public Health).

Welcome and Introductions

- The meeting was convened by Heather Gramp at 2:01 p.m. with a welcome, information about call-in and logistics.
- Rules Advisory Committee (RAC) members introduced themselves.

Review Progress to Date and Today's Agenda

- Heather Gramp provided a history of the previous RAC meetings.
    - Four meetings have been held, with the last one on November 3, 2015. Notes from the previous meetings were sent to committee members and are available online: http://www.healthoregon.org/morefreshair.
    - Heather thanked members of the committee for their participation.

- Heather Gramp reviewed the agenda for the current meeting, indicating that today's RAC meeting will mostly cover the new language of draft rules, including definitions, packaging and labeling requirements for Inhalant Delivery Systems (IDS), enforcement and penalties, and review of the Statement of Need and Fiscal Impact.

Discussion of Revised Draft Rules

Definitions

Kim La Croix led the committee through the language changes of the draft rules and definitions. The draft rules reflect the changes discussed during the previous RAC meetings. See the draft rules sent December 2, 2015 for more details.

To assist with making the rules more easily understandable, new definitions were created for the following:

- Inner Packaging
- Non-nicotine liquid container
- Outlet

Question/Comments

- For "inner package," clarification was requested regarding what is included as part of the "inner packaging" definition.
- For "sealed," it was suggested this was not important to the definition and added a layer of complexity.
- For "liquid inhalant container," it was recommended to add language specifically stating that the definition applies to non-nicotine or non-cannabinoid inhalants.

Labeling Requirements for Liquid Nicotine and Pre-filled Inhalant Delivery Systems

Heather Gramp led the committee through the language changes to the draft labeling requirements and the new organization of the rules by the four categories of product types. The draft rules reflect the changes discussed during the previous RAC meetings. See the draft rules sent December 2, 2015 for more details.

Categories of Inhalant Delivery Systems:

- Liquid Nicotine container
- Non-nicotine liquid container
- Pre-filled Inhalant Delivery Systems
- Fillable Inhalant Delivery Systems

Questions/Comments

- For "minor," do not include "under 18" language, because these are not always equivalent. Instead, include a definition of minor in rule and remove the age reference.
- For "label," clarify that the label is on both the outer package and the inner package (if there are outer and inner packages).
- For "manufacturer contact information," add language that will cover the easiest point of contact (preferably U.S.-based) and apply this requirement to fillable and prefilled devices.
- Consider allowing the distributor contact information, if U.S.-based, when the manufacturer is not U.S.-based.
- For "fillable inhalant delivery system container," define it as not containing any solution and empty.
- For "fillable inhalant delivery system container," adjust language regarding the label on the outer packaging so it's clear the label needs to be on the device.

- Add “For accidental exposure,” as a preface to the Poison Center number, as it states in the liquid nicotine container section.

General Label Requirements and Exceptions

Kim La Croix led the committee through the general labeling requirements and the language changes to the draft rules that reflect the discussion from previous RAC meetings. See the draft rules sent December 2, 2015 for more details.

Questions/Comments

- For “general labeling requirements,” language should state “this rule does not apply to” and the term “marijuana” should be used (in place of cannabinoid). Cannabinoids is meant to be all-inclusive, but the term “marijuana items” should be used, as defined in House Bill 3400, Section 1(16).
- Regarding “font,” look at allowing fonts smaller than 8 pt. Because package size varies so much, consider requiring that labels be only “clearly legible.”

Packaging Requirements

Heather Gramp led the committee through the packaging requirements and the language changes to the draft rules that reflect the discussion from previous RAC meetings. See the draft rules sent December 2, 2015 for more details. This section has been organized into the four previously mentioned categories.

Language has been adjusted to reflect that child-resistant packaging will not apply to the device itself at this time and the draft rules are now written as such. Oregon Health Authority will continue to monitor exposure data from the Oregon Poison Center to assess whether there are any public health concerns that warrant revisiting the rules requiring child-resistant packaging in the future.

Questions/Comments

- For “packaging,” change language to “any” packaging must “not be attractive to minors” and then specify inner and outer packaging requirements.

Enforcement, Violations and Penalties

Kim La Croix led the committee through the enforcement, violations, and penalties language changes to the draft rules to reflect the discussion from previous RAC meetings. Kim reminded members of the newly added definitions for “outlet” and “retail setting,” which should assist with making compliance requirements clearer. See the draft rules sent on December 2, 2015 for more details.

Questions/Comments:

- For “enforcement,” it is not clear who is responsible and language should be clearer.
- For “testing protocol,” adjust language from milligrams to milliliters and possibly remove 15% variation language.
- For “’penalty,” modify language to be clear about dollar amount for first, second, or third offense and specify when violation clock resets.
- For “penalty,” add clarifying language on how to apply penalty if a retailer orders cases of different products from the same distributor/manufacturer.

Review of Statement of Need and Fiscal Impact

Heather Gramp reviewed the Statement of Need and Fiscal Impact. There was an acknowledgement of increase of cost that is possible to the industry as well as the Oregon Health Authority. For the former, it is unknown whether sourcing new, child-resistant packaging will cost more, for example. For Oregon Health Authority, monitoring and enforcement activities represent an additional cost, compared to current tobacco prevention and education activities.

Questions/Comments:

- Would like a distinction between retail vaping stores and chain grocery stores or convenience stores.

Review of timeline and next steps

This is the final formal meeting. Oregon Health Authority will file a Notice of Proposed Rulemaking with the Secretary Of State in March and set up public hearings and a comment period. This will likely occur after the legislative session. Rules Advisory Committee members are welcome to participate in comment periods and hearings. When rules are finalized, OHA will provide information to affected businesses and will introduce training and education pieces for Local Public Health Authorities.

Process review and Final Questions

Heather thanked the committee members for their participation and encouraged them to continue participating in this process with OHA. Heather adjourned the meeting at 4:04 p.m.