



**Re: Rules Schedule Update – April 20, 2016**

The following is a schedule of rule making activities.

**COMPLETED RULES**

The following rules have been completed since the last update:

Rules	Effective Date
Marijuana Emergency Rules to Implement 2015 MJ Legislation	<b>April 6, 2016</b>
Lab Proficiency Testing and Certification Suspension/Revocation Emergency Rules	<b>April 6, 2016</b>
Marijuana Recalls Emergency Rules	<b>March 23, 2016</b>
Marijuana Emergency Rules to Implement 2015 MJ Legislation	<b>January 6, 2016</b>
Non-Profit Organization Licenses (Consumption in seating areas)	<b>January 16, 2016</b>

**Rules review and stakeholder request rulemaking process**

Businesses and the general public should expect clear rules and regulations and user-friendly processes from state agencies. The Liquor and Cannabis Board continues to review existing rules for timeliness, clarity, and necessity. This review assists in compliance with Executive Order 06-02 issued by Governor Gregoire. The Liquor and Cannabis Board also reviews existing rules or creates new rules based on stakeholder petitions for rulemaking. The LCB has indicated by filing a CR 101 form that the following rules may be developed or modified as part of an on-going review of agency rules.

Rule Making Topic	Stage of Rule Making		
	101	102	103
Penalty Guidelines	6/10/15	5/4/16	6/15/16
Alcohol Impact Areas (Stakeholder request)	10/20/14	3/23/16	5/18/16
Fair Trade Practice (WAC 314-23-085 What type of discounts are not allowed?)	2/24/16	5/18/16	7/6/16
Marijuana Recalls	3/23/16	5/18/16	Tentative 8/3/16

Lab Proficiency Testing and Certification Revocation/Suspension Rules	4/6/16	6/15/16	Tentative 8/3/16
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### Rule making resulting from recent legislative changes

Rulemaking begins after the Legislative session ends.

New Law	Affected WACs	Stage of Rule Making		
		CR 101	CR 102	CR 103
<b>2ESSHB 2136 and 2SSB 5052</b> Cannabis Patient Protection Act	Create new sections in Chapter 314-55 WAC and revise current rules in this chapter.	7/15/15 (file 7/24/15)	9/23/15 Supplemental CR 102 filed 1/6/16 2 <sup>nd</sup> Supplemental CR102 filed 3/23/16	5/18/16



**Washington State  
Liquor and Cannabis Board**

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Date: April 20, 2016

To: Jane Rushford, Board Chair  
Ruthann Kurose, Board Member

From: Joanna Eide, Policy and Rules Coordinator

Copy: Rick Garza, Agency Director  
Peter Antolin, Deputy Director  
Justin Nordhorn, Chief of Enforcement  
Becky Smith, Licensing Director  
Jodi Davison, Marijuana Examiners Unit  
Karen McCall, Agency Rules Coordinator

Subject: **Approval for filing a pre-proposal statement of inquiry (CR 101) to initiate rulemaking to implement 2016 marijuana legislation.**

Rule changes are needed to implement changes in the law related to marijuana through bills passed during the 2016 Legislative Session. These rule changes will implement changes made to law in the following bills:

- HB 2520, Concerning the sale of marijuana to regulated cooperatives
- HB 2521, Allowing for the proper disposal of unsellable marijuana by a licensed marijuana retail outlet
- SSB 6341, Concerning the provision of personal services and promotional items by cannabis producers and processors

**Process**

The Rules Coordinator requests approval to file the pre-proposal statement of inquiry (CR 101) for the rule making described above. An issue paper on this rule was presented at the Board meeting on April 20, 2016, and is attached to this order.

If approved for filing, the tentative timeline for the rule making process is outlined below:

April 20, 2016	Board is asked to approve filing the pre-proposal statement of inquiry (CR 101)
May 4, 2016	Code Reviser publishes notice, LCB sends notice to rules distribution list
July 13, 2016	End of written comment period
July 13, 2016	Board is asked to approve filing the proposed rules (CR

	102 filing) (Code Reviser filing deadline is July 20)
August 3, 2016	Code Reviser publishes notice, LCB sends notice to rules distribution list
August 24, 2016	Public Hearing held
August 24, 2016	End of written comment period
September 7, 2016	Board is asked to adopt rules
September 7, 2016	Agency sends notice to those who commented both at the public hearing and in writing.
September 7, 2016	Agency files adopted rules with the Code Reviser (CR 103)
October 8, 2016	Rules are effective (31 days after filing)

Approve       Disapprove      \_\_\_\_\_  
 Jane Rushford, Board Chair      Date

Approve       Disapprove      \_\_\_\_\_  
 Ruthann Kurose, Board Member      Date

Attachment: Issue Paper

Washington State Liquor and Cannabis Board

## **Issue Paper**

# **Rules to Implement 2016 Marijuana Legislation**

Date: April 20, 2016

Presented by: Joanna Eide, Policy and Rules Coordinator

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## **Description of the Issue**

The purpose of this Issue Paper is to request approval from the Board to file the first stage of rulemaking (CR 101) to create or amend rules in Chapter 314-55 WAC Marijuana Licenses, Application Process, Requirements, and Reporting to implement legislation related to marijuana passed during the 2016 Legislative Session.

## **Why is rule making necessary?**

Rule changes are necessary to implement changes made to statute by the Legislature during the 2016 Legislative Session. These rule changes will implement changes made to law in the following bills:

- HB 2520, Concerning the sale of marijuana to regulated cooperatives
- HB 2521, Allowing for the proper disposal of unsellable marijuana by a licensed marijuana retail outlet
- SSB 6341, Concerning the provision of personal services and promotional items by cannabis producers and processors

## **Process**

The rule making process begins by announcing LCB's intent to add and make changes to existing rules by filing a CR 101 form. This allows staff and stakeholders to begin discussing necessary rule changes. At the CR 101 stage of the process, no proposed language is offered. The public may comment on the subject of this rulemaking during the designated comment period. Notice will be sent to all who have indicated that they want to receive notice of rule changes. The notice will identify the public comment period and where comments can be sent. Based on public input received, staff will draft proposed changes for presentation to the Board at the next phase of the rule making process.



**Washington State  
Liquor and Cannabis Board**

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Date: April 20, 2016

To: Jane Rushford, Board Chair  
Ruthann Kurose, Board Member

From: Joanna Eide, Policy and Rules Coordinator

Copy: Rick Garza, Agency Director  
Peter Antolin, Deputy Director  
Justin Nordhorn, Chief of Enforcement  
Becky Smith, Licensing Director  
Jodi Davison, Marijuana Examiners Unit  
Karen McCall, Agency Rules Coordinator

Subject: **Approval for filing a pre-proposal statement of inquiry (CR 101) to initiate rulemaking to implement SB 6328, vapor products.**

Rule changes are needed to implement changes in the law related to vapor products and tobacco regulation (SB 6328) passed during the 2016 Legislative Session.

**Process**

The Rules Coordinator requests approval to file the pre-proposal statement of inquiry (CR 101) for the rule making described above. An issue paper on this rule was presented at the Board meeting on April 20, 2016, and is attached to this order.

If approved for filing, the tentative timeline for the rule making process is outlined below:

April 20, 2016	Board is asked to approve filing the pre-proposal statement of inquiry (CR 101)
May 4, 2016	Code Reviser publishes notice, LCB sends notice to rules distribution list
June 15, 2016	End of written comment period
June 15, 2016	Board is asked to approve filing the proposed rules (CR 102 filing) (Code Reviser filing deadline is June 22)
July 6, 2016	Code Reviser publishes notice, LCB sends notice to rules distribution list
July 27, 2016	Public Hearing held
July 27, 2016	End of written comment period
August 10, 2016	Board is asked to adopt rules
August 10, 2016	Agency sends notice to those who commented both at

	the public hearing and in writing.
August 10, 2016	Agency files adopted rules with the Code Reviser (CR 103)
September 10, 2016	Rules are effective (31 days after filing)

Approve       Disapprove      \_\_\_\_\_  
Jane Rushford, Board Chair      Date

Approve       Disapprove      \_\_\_\_\_  
Ruthann Kurose, Board Member      Date

Attachment: Issue Paper

Washington State Liquor and Cannabis Board

## **Issue Paper**

# **Rules Relating to Vapor Products and Tobacco Regulation to Implement SB 6328**

Date: April 20, 2016

Presented by: Joanna Eide, Policy and Rules Coordinator

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### **Description of the Issue**

The purpose of this Issue Paper is to request approval from the Board to file the first stage of rulemaking (CR 101) to create or amend rules in Title 314 to implement SB 6328 relating to vapor products and tobacco regulation passed during the 2016 Legislative Session.

### **Why is rule making necessary?**

Rule changes are necessary to implement changes made to statute by the Legislature during the 2016 Legislative Session.

### **Process**

The rule making process begins by announcing LCB's intent to add and make changes to existing rules by filing a CR 101 form. This allows staff and stakeholders to begin discussing necessary rule changes. At the CR 101 stage of the process, no proposed language is offered. The public may comment on the subject of this rulemaking during the designated comment period. Notice will be sent to all who have indicated that they want to receive notice of rule changes. The notice will identify the public comment period and where comments can be sent. Based on public input received, staff will draft proposed changes for presentation to the Board at the next phase of the rule making process.



Washington State  
**Liquor and Cannabis Board**

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Date: April 20, 2016

To: Jane Rushford, Board Chair  
 Ruthann Kurose, Board Member

From: Joanna Eide, Policy and Rules Coordinator

Copy: Rick Garza, Agency Director  
 Peter Antolin, Deputy Director  
 Justin Nordhorn, Chief of Enforcement  
 Becky Smith, Licensing Director  
 Jodi Davison, Marijuana Examiners Unit  
 Karen McCall, Agency Rules Coordinator

Subject: **Approval for filing a pre-proposal statement of inquiry (CR 101) to initiate rulemaking related to the marijuana excise tax electronic payments proviso in the 2016 Supplemental Budget.**

The Legislature included a proviso related to electronic payments of the marijuana excise tax in the 2016 Supplemental Budget. Rule changes are needed to create the parameters for the electronic payments, and to provide a process for applying for a waiver from the electronic payment requirement. The LCB also intends to amend rules to allow appeals of a waiver denial to proceed as brief adjudicative proceedings under the Administrative Procedures Act (Chapter 34.05 RCW).

Process

The Rules Coordinator requests approval to file the pre-proposal statement of inquiry (CR 101) for the rule making described above. An issue paper on this rule was presented at the Board meeting on April 20, 2016, and is attached to this order.

If approved for filing, the tentative timeline for the rule making process is outlined below:

April 20, 2016	Board is asked to approve filing the pre-proposal statement of inquiry (CR 101)
May 4, 2016	Code Reviser publishes notice, LCB sends notice to rules distribution list
July 13, 2016	End of written comment period
July 13, 2016	Board is asked to approve filing the proposed rules (CR 102 filing) (Code Reviser filing deadline is July 20)

August 3, 2016	Code Reviser publishes notice, LCB sends notice to rules distribution list
August 24, 2016	Public Hearing held
August 24, 2016	End of written comment period
September 7, 2016	Board is asked to adopt rules
September 7, 2016	Agency sends notice to those who commented both at the public hearing and in writing.
September 7, 2016	Agency files adopted rules with the Code Reviser (CR 103)
October 8, 2016	Rules are effective (31 days after filing)

Approve       Disapprove      \_\_\_\_\_  
 Jane Rushford, Board Chair      Date

Approve       Disapprove      \_\_\_\_\_  
 Ruthann Kurose, Board Member      Date

Attachment: Issue Paper

Washington State Liquor and Cannabis Board

## **Issue Paper**

# **Marijuana Excise Tax Electronic Payments Budget Proviso Implementation**

Date: April 20, 2016

Presented by: Joanna Eide, Policy and Rules Coordinator

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## **Description of the Issue**

The purpose of this Issue Paper is to request approval from the Board to file the first stage of rulemaking (CR 101) for rule changes required as a result of the Legislature passing the 2016 Supplemental Budget with an included proviso related to electronic payment of the marijuana excise tax.

## **Why is rule making necessary?**

Rule changes are necessary to implement the budget proviso related electronic payment of the marijuana excise tax included by the Legislature in the 2016 Supplemental Budget. Rule changes are needed to provide parameters for the electronic payments and to provide a process for obtaining a waiver for the electronic payments. The LCB also intends to amend rules to allow appeals of a waiver denial to proceed as brief adjudicative proceedings under the Administrative Procedures Act (Chapter 34.05 RCW).

## **Process**

The rule making process begins by announcing LCB's intent to add and make changes to existing rules by filing a CR 101 form. This allows staff and stakeholders to begin discussing necessary rule changes. At the CR 101 stage of the process, no proposed language is offered. The public may comment on the subject of this rulemaking during the designated comment period. Notice will be sent to all who have indicated that they want to receive notice of rule changes. The notice will identify the public comment period and where comments can be sent. Based on public input received, staff will draft proposed changes for presentation to the Board at the next phase of the rule making process.



**Washington State  
Liquor and Cannabis Board**

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Date: April 20, 2016

To: Jane Rushford, Board Chair  
Ruthann Kurose, Board Member

From: Joanna Eide, Policy and Rules Coordinator

Copy: Rick Garza, Agency Director  
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Becky Smith, Licensing Director  
Jodi Davison, Marijuana Examiners Unit  
Karen McCall, Agency Rules Coordinator

Subject: **Approval for filing a pre-proposal statement of inquiry (CR 101) to initiate rulemaking to review laboratory testing and quality assurance (QA) rules.**

The LCB has identified several topics where improvements are needed in its rules related to the production of marijuana, testing requirements and lab standardization, among other similar topics. The LCB is currently convening a working group consisting of laboratories, industry representatives (licensees), the Department of Agriculture, Department of Health, and the Department of Ecology. This working group will review existing rules relating to marijuana production and testing requirements, and laboratory testing and standardization to identify recommended changes to improve, expand, refine and create rules related to these topics. The LCB will consider these recommendations as it proceeds in this rulemaking should the board approve filing the CR 101 to initiate rulemaking.

**Process**

The Rules Coordinator requests approval to file the pre-proposal statement of inquiry (CR 101) for the rule making described above. An issue paper on this rule was presented at the Board meeting on April 20, 2016, and is attached to this order.

If approved for filing, the tentative timeline for the rule making process is outlined below:

April 20, 2016	Board is asked to approve filing the pre-proposal statement of inquiry (CR 101)
May 4, 2016	Code Reviser publishes notice, LCB sends notice to rules distribution list

August 24, 2016	End of written comment period
August 24, 2016	Board is asked to approve filing the proposed rules (CR 102 filing) (Code Reviser filing deadline is August 24)
September 7, 2016	Code Reviser publishes notice, LCB sends notice to rules distribution list
October 5, 2016	Public Hearing held
October 5, 2016	End of written comment period
October 19, 2016	Board is asked to adopt rules
October 19, 2016	Agency sends notice to those who commented both at the public hearing and in writing.
October 19, 2016	Agency files adopted rules with the Code Reviser (CR 103)
November 19, 2016	Rules are effective (31 days after filing)

Approve       Disapprove      \_\_\_\_\_  
 Jane Rushford, Board Chair      Date

Approve       Disapprove      \_\_\_\_\_  
 Ruthann Kurose, Board Member      Date

Attachment: Issue Paper

Washington State Liquor and Cannabis Board

## **Issue Paper**

# **Lab Testing and Quality Assurance Rules Review**

Date: April 20, 2016

Presented by: Joanna Eide, Policy and Rules Coordinator

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## **Description of the Issue**

The purpose of this Issue Paper is to request approval from the Board to file the first stage of rulemaking (CR 101) to create or amend rules related to marijuana production and testing requirements, and laboratory testing and standardization.

## **Why is rule making necessary?**

The LCB is currently convening a working group consisting of laboratories, industry representatives (licensees), the Department of Agriculture, Department of Health, and the Department of Ecology. This working group will review existing rules relating to marijuana production and testing requirements, and laboratory testing and standardization to identify recommended changes to improve, expand, refine and create rules. The LCB will consider these recommendations as it proceeds in this rulemaking should the board approve filing the CR 101.

## **Process**

The rule making process begins by announcing LCB's intent to add and make changes to existing rules by filing a CR 101 form. This allows staff and stakeholders to begin discussing necessary rule changes. At the CR 101 stage of the process, no proposed language is offered. The public may comment on the subject of this rulemaking during the designated comment period. Notice will be sent to all who have indicated that they want to receive notice of rule changes. The notice will identify the public comment period and where comments can be sent. Based on public input received, staff will draft proposed changes for presentation to the Board at the next phase of the rule making process.



**Topic: Petition for Rulemaking to allow a producer to assume another existing producer license**

**Date: April 20, 2016**

**Presented by: Joanna Eide, Policy and Rules Coordinator**

**Problem or Opportunity**

A petition for rulemaking was submitted by Max Hewitt on behalf of Robert McKinley, CEO of Grow Op Farms. Mr. Hewitt requests the board amend rule to allow a licensed producer to possess more than one license. Mr. Hewitt feels that there will be an increased demand for product with the recent expansion of the statewide canopy and the consolidation of medical marijuana into the regulated retail market. Mr. Hewitt states that current demand for product is not being met by existing growers and with the number of producers' businesses that have failed coupled with the increased demand that will come with medical marijuana more producer licenses need to be issued. Mr. Hewitt further feels that it would not mean an increase to the current limitations on plant canopy if existing producers assume the licenses of those producers that have gone out of business and would also allow for increased supply of marijuana to meet current demand not met by existing producers and future increased demands for product.

**Background**

WAC 314-55-075 limits any entity and/or principals within any entity to no more than three marijuana producer licenses. See WAC 314-55-075(5). However, producers are currently limited to only one license per producer under the interim policy established by the WSLCB due to plant canopy needs being met by current licensed producers.

**Recommendation**

Director's Office staff recommends the board deny the petition for rulemaking at this time as we plan to continue to look into the issue and potentially address it later this year.

\_\_\_\_\_ Approve      \_\_\_\_\_ Disapprove      \_\_\_\_\_  
Jane Rushford, Board Chair      Date

\_\_\_\_\_ Approve      \_\_\_\_\_ Disapprove      \_\_\_\_\_  
Ruthann Kurose, Board Member      Date



**Topic: Petition for Rulemaking regarding testing for bloom fertilizers and establishing plant flushing procedures**

**Date: April 20, 2016**

**Presented by: Joanna Eide, Policy and Rules Coordinator**

**Problem or Opportunity**

A petition for rulemaking was submitted by John Worthington, a private citizen. Mr. Worthington requests the WSLCB to adopt a new rule regarding testing for bloom fertilizers and establishing proper plant flushing procedures. Mr. Worthington states in the petition that bloom fertilizers are not healthy to smoke, vaporize, or ingest, and asks that the rule be applicable to both medical and recreational marijuana.

**Background**

Current WAC 314-55-084 allows the use of commercial fertilizers registered by WSDA under Chapter 15.54 RCW. There are no current specific restrictions on the use of bloom fertilizers on marijuana, nor are there established plant flushing procedures. The WSCLB has received many comments from stakeholders and the public in general about concerns related to chemicals and pesticides on marijuana and the need for more robust regulation surrounding those issues. WSLCB has been working closely with the Washington Department of Health (DOH) as it develops the standards for medical marijuana, which will soon become part of the regulated market. The WSLCB also works closely with the Pesticide Registration Unit with the Washington State Department of Agriculture (WSDA). The WSLCB is convening a working group (Quality Assurance Working Group) that will make recommendations on many issues related to marijuana production requirements, laboratory work and marijuana testing requirements. The group will be comprised of laboratories, industry representatives, DOH, WSDA, and Ecology.

**Recommendation**

Director's Office staff recommends the board approve the petition and include this topic in the discussions of the Quality Assurance Working Group that will make recommendations to the LCB for regulatory improvements to marijuana production requirements, testing requirements, and lab standards, as detailed in the CR-101 presented to the board today.

\_\_\_\_\_ Approve      \_\_\_\_\_ Disapprove      \_\_\_\_\_  
Jane Rushford, Board Chair      Date

\_\_\_\_\_ Approve      \_\_\_\_\_ Disapprove      \_\_\_\_\_  
Ruthann Kurose, Board Member      Date