



Washington State Liquor and Cannabis Board

Date: April 6, 2016

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

From: Karen McCall, Agency Rules Coordinator

Copy: Rick Garza, Agency Director
Peter Antolin, Deputy Director
Justin Nordhorn, Chief of Enforcement
Becky Smith, Licensing Director

Subject: **Approval to file Emergency Rules to implement 2015 marijuana legislation.**

This rulemaking is the result of 2015 legislation. E2SHB 2136, 2SSB 5052, were passed during the legislative session. Re-adoption of new emergency rules and emergency revisions to current rules are needed to implement sections of these bills to ensure that medical marijuana will be available to patients by the date that collective gardens are mandated to be closed down, July 1, 2016. These rules will protect the health and welfare of medical marijuana patients in the state of Washington.

The emergency rules are necessary for the preservation of the public health, safety, and general welfare. The board adopted emergency rules on September 23, 2015, that expired on January 21, 2016, and readopted the emergency rules on January 6, 2016, that will expire on April 11, 2016. New emergency rules are need until the permanent rules are in effect. These emergency rules will become effective upon filing with the Code Reviser's Office and will expire on August 4, 2016.

The emergency rules will become part of the permanent rulemaking the board opened on July 15, 2015, which also includes revisions to additional marijuana rules in chapter 314-55 WAC.

Process

The Rules Coordinator requests approval to file the Emergency Rules described above. An issue paper on these rules was presented at the Board meeting on April 6, 2016, and is attached to this order.

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

April 6, 2016	Board is asked to approve filing the Emergency Rules
April 6, 2016	The Emergency Rules become effective
August 4, 2016	The Emergency Rules expire.

_____ Approve _____ Disapprove _____
Jane Rushford, Chairman _____ Date

_____ Approve _____ Disapprove _____
Ruthann Kurose, Board Member _____ Date

Attachment: Issue Paper

Washington State Liquor and Cannabis Board

Issue Paper

Emergency Rules for Marijuana

Date: April 6, 2016

Presented by: Karen McCall, Agency Rules Coordinator

Description of the Issue

The purpose of this Issue Paper is to request approval from the Board to file emergency rules to clarify legislation that passed during the 2015 legislative session in regards to medical marijuana.

Why is rule making necessary?

Emergency rules are needed to provide clarity to the marijuana licensee and potential marijuana license applicants regarding the application process and requirements for medical marijuana. Licenses will need to be issued to ensure that medical marijuana will be available to patients by the date that collective gardens are mandated to be closed down, July 1, 2016.

Process

The emergency rules are necessary for the preservation of the public health, safety, and general welfare. The rule becomes effective upon filing with the Code Reviser's Office and will expire August 4, 2016, 120 days after filing.

The emergency rules will become part of the permanent rulemaking the board opened on July 15, 2015, which also includes revisions to additional marijuana rules in chapter 314-55 WAC.

What are the changes?

Amended Section. WAC 314-55-010 Definitions. Revised definition of "applicant" and added a definition for "medical marijuana".

Amended Section. WAC 314-55-020 Marijuana license qualifications and application process. Added language regarding posting notices for marijuana applications. Clarifies the priority system for marijuana applications

Amended Section. WAC 314-55-050 Reasons the board may seek denial, suspension, or cancellation of a marijuana license application or license. Added language regarding the allowance of cities or counties to adjust the buffer zone for marijuana licenses by local ordinance.

Amended Section. WAC 314-55-075 What is a marijuana producer license and what are the requirements and fees related to a marijuana

producer license? Removed the maximum amount of plant canopy. This will be imposed at a later date.

Amended Section. WAC 314-55-077 What is a marijuana processor license and what are the requirements and fees related to a marijuana processor license? Added language that allows a currently licensed producer licensee to add a processor license at the location of their producer license.

New Section. WAC 314-55-080 Medical marijuana endorsement. Created a new rule to clarify the requirements for a medical marijuana endorsement.

Amended Section. WAC 314-55-081 Who can apply for a marijuana retailer license? Added language that explains how the number of retail locations will be determined. Removed the language regarding a lottery. Removed the 30-day application window language. Included language that the board will publish on its website the number of retail locations determined by the board.

WAC 314-55-010 Definitions. Following are definitions for the purpose of this chapter. Other definitions are in RCW 69.50.101.

(1) "Applicant" or "marijuana license applicant" means any person or business entity who is considered by the board as a true party of interest in a marijuana license, as outlined in WAC 314-55-035. However, for purposes only of determining an application's priority under RCW 69.50.331 (1)(a), only the person or business entity (sole proprietorship, partnership of any type, limited liability company, privately or publicly held corporation, or nonprofit corporation) that is applying for the license will be considered the applicant.

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

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

(4) "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 twenty-four hours licensed by the Washington state department of early learning under chapter 170-295 WAC.

(5) "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).

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

(7) "Employee" means any person performing services on a licensed premises for the benefit of the licensee.

(8) "Financier" means any person or entity, other than a banking institution, that has made or will make an investment in the licensed business. A financier can be a person or entity that provides money as a gift, loans money to the applicant/business and expects to be paid back the amount of the loan with or without interest, or expects any percentage of the profits from the business in exchange for a loan or expertise.

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

(10) "Intermediate product" means marijuana flower lots or other material lots that have been converted by a marijuana processor to a marijuana concentrate or marijuana-infused product that must be further processed prior to retail sale.

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

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

(13) "Lot" means either of the following:

(a) The flowers from one or more marijuana 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 marijuana plants. A single lot of trim, leaves, or other plant matter cannot weigh more than fifteen pounds.

(14) "Marijuana 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.

(15) "Medical marijuana" is defined by rule of the department of health.

(16) "Member" 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 spouses of all principals or governing persons named in this definition and referenced in WAC 314-55-035.

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

(18) "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.

(19) "Perimeter" means a property line that encloses an area.

(20) "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.

(21) "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, or federal government.

(22) "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.

(23) "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.

~~((23))~~ (24) "Recreation center or facility" means a supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a charitable nonprofit organization, city, county, state, or federal government.

~~((24))~~ (25) "Residence" means a person's address where he or she physically resides and maintains his or her abode.

~~((25))~~ (26) "Secondary school" means a high and/or middle school: A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington state superintendent of public instruction.

~~((26))~~ (27) "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 board. For purposes of this subsection:

(a) "Product" means marijuana, marijuana concentrates, usable marijuana, and marijuana-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.

~~((27))~~ (28) "Unit" means an individually packaged marijuana-infused solid or liquid product meant to be eaten or swallowed, not to exceed ten servings or one hundred milligrams of active tetrahydrocannabinol (THC), or Delta 9.

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-020 Marijuana license qualifications and application process. Each marijuana license application is unique and investigated individually. The board may inquire and request documents regarding all matters in connection with the marijuana license application. The application requirements for a marijuana license include, but are not necessarily limited to, the following:

(1) Per RCW 69.50.331, the board shall send a notice to cities and counties, and may send a notice to tribal governments or port authorities regarding the marijuana license application. The local authority has twenty days to respond with a recommendation to approve or an objection to the applicant, location, or both.

(2) Applicants for a new marijuana producer, processor, or retailer license and those who apply to change their location must display a sign provided by the WSLCB on the outside of the premises to be licensed notifying the public that the premises are subject to an application for a marijuana license. Posting notices must occur within seven days of submitting the location confirmation form for new licenses or the change of location application for existing licensees. The WSLCB may check for compliance with these requirements at its discretion. The sign must:

(a) Not be altered. The licensee must post the sign sent by the WSLCB without changing, adding, or subtracting from the text;

(b) Be conspicuously displayed on, or immediately adjacent to, the premises subject to the application and in the location that is most likely to be seen by the public;

(c) Be of a size sufficient to ensure that it will be readily seen by the public, at a minimum these signs must be eight and one-half by eleven inches;

(d) Be posted within seven business days of the date the notice is sent to the applicant by the WSLCB;

(e) Be posted for fourteen consecutive days.

(3) The WSLCB will use a priority system to determine the order that marijuana retailers are licensed. Within priority categories, applications will not be ranked and will be processed in order of submission.

(a) **First priority is given to applicants who:**

(i) Applied to the WSLCB for a marijuana retail license prior to July 1, 2014. To meet this qualification, the applicant must provide the WSLCB a copy of the master business license from department of revenue business licensing services showing the applicant applied for a retail marijuana license prior to July 1, 2014;

(ii) Operated or were employed by a collective garden before January 1, 2013. To meet this qualification, the applicant must provide the WSLCB a copy of the master business license from department of revenue business licensing services showing the applicant owned a collective garden prior to January 1, 2013, or a pay stub or tax information indicating that the applicant was employed by a collective garden prior to January 1, 2013;

(iii) Have maintained a state business license and municipal business license, as applicable in the relevant jurisdiction. To meet this qualification, the applicant must provide the WSLCB a copy of the master business license from department of revenue business licensing services and copies of municipal business licenses from January 1, 2013, through the date of application; and

(iv) Have had a history of paying all applicable state taxes and fees. To meet this qualification, the applicant must provide the WSLCB evidence from the department of revenue that the entity is up to date on all applicable state taxes since January 1, 2013, and that they have paid all applicable fees to the WSLCB for all businesses they are engaged in since January 1, 2013.

(b) **Second priority is given to applicants who:**

(i) Operated or were employed by a collective garden before January 1, 2013. To meet this qualification, the applicant must provide the WSLCB a copy of the master business license from department of revenue business licensing services showing the applicant owned a collective garden prior to January 1, 2013, or a pay stub or tax information indicating that the applicant was employed by a collective garden prior to January 1, 2013;

(ii) Have maintained a state business license and municipal business license, as applicable in the relevant jurisdiction. To meet this qualification, the applicant must provide the WSLCB a copy of the master business license from department of revenue business licensing services and copies of municipal business licenses from January 1, 2013, through the date of application; and

(iii) Have had a history of paying all applicable state taxes and fees. To meet this qualification, the applicant must provide the WSLCB evidence from the department of revenue that the entity is up to date

on all applicable state taxes since January 1, 2013, and that they have paid all applicable fees to the WSLCB for all businesses they are engaged in since January 1, 2013, for all businesses they are engaged in since January 1, 2013.

(c) Third priority is given to all other applicants who do not meet the qualifications and experience identified for priority one or two.

(4) All marijuana retail applicants must meet the qualifications required by the WSLCB before they will be granted a license regardless of priority.

(5) The board will verify that the proposed business meets the minimum requirements for the type of marijuana license requested.

~~((3))~~ (6) The board will conduct an investigation of the applicants' criminal history and administrative violation history, per WAC 314-55-040 and 314-55-045.

(a) The criminal history background check will consist of completion of a personal/criminal history form provided by the board and submission of fingerprints to a vendor approved by the board. The applicant will be responsible for paying all fees required by the vendor for fingerprinting. These fingerprints will be submitted to the Washington state patrol and the Federal Bureau of Investigation for comparison to their criminal records. The applicant will be responsible for paying all fees required by the Washington state patrol and the Federal Bureau of Investigation.

(b) Financiers will also be subject to criminal history investigations equivalent to that of the license applicant. Financiers will also be responsible for paying all fees required for the criminal history check. Financiers must meet the three month residency requirement.

~~((4))~~ (7) The board will conduct a financial investigation in order to verify the source of funds used for the acquisition and startup of the business, the applicants' right to the real and personal property, and to verify the true party(ies) of interest.

~~((5))~~ (8) The board may require a demonstration by the applicant that they are familiar with marijuana laws and rules.

~~((6))~~ (9) The board may conduct a final inspection of the proposed licensed business, in order to determine if the applicant has complied with all the requirements of the license requested.

~~((7))~~ (10) Per RCW 69.50.331 (1)(b), all applicants applying for a marijuana license must have resided in the state of Washington for at least ~~((three))~~ six months prior to application for a marijuana license. All partnerships, employee cooperatives, associations, non-profit corporations, corporations and limited liability companies applying for a marijuana license must be formed in Washington. All members must also meet the ~~((three))~~ six month residency requirement. Managers or agents who manage a licensee's place of business must also meet the ~~((three))~~ six month residency requirement.

~~((8))~~ (11) Submission of an operating plan that demonstrates the applicant is qualified to hold the marijuana license applied for to the satisfaction of the board. The operating plan shall include the following elements in accordance with the applicable standards in the Washington Administrative Code (WAC).

~~((9))~~ (12) As part of the application process, each applicant must submit in a format supplied by the board an operating plan detailing the following as it pertains to the license type being sought. This operating plan must also include a floor plan or site plan drawn

to scale which illustrates the entire operation being proposed. The operating plan must include the following information:

Producer	Processor	Retailer
Security	Security	Security
Traceability	Traceability	Traceability
Employee qualifications and training	Employee qualifications and training	Employee qualifications and training
Transportation of product including packaging of product for transportation	Transportation of product	Transportation of product
Destruction of waste product	Destruction of waste product	Destruction of waste product
Description of growing operation including growing media, size of grow space allocated for plant production, space allocated for any other business activity, description of all equipment used in the production process, and a list of soil amendments, fertilizers, other crop production aids, or pesticides, utilized in the production process	Description of the types of products to be processed at this location together with a complete description of all equipment to include all marijuana-infused edible processing facility equipment and solvents, gases, chemicals and other compounds used to create extracts and for processing of marijuana-infused products	
Testing procedures and protocols	Testing procedures and protocols	
	Description of the types of products to be processed at this location together with a complete description of processing of marijuana-infused products	
	Description of packaging and labeling of products to be processed	
		What array of products are to be sold and how are the products to be displayed to consumers

After obtaining a license, the license holder must notify the board in advance of any substantial change in their operating plan. Depending on the degree of change, prior approval may be required before the change is implemented.

~~((10))~~ (13) Applicants applying for a marijuana license must be current in any tax obligations to the Washington state department of revenue and other state agencies, as an individual or as part of any entity in which they have an ownership interest. Applicants must sign an attestation that, under penalty of denial or loss of licensure, that representation is correct.

~~((11))~~ (14) The issuance or approval of a license shall not be construed as a license for, or an approval of, any violations of local rules or ordinances including, but not limited to: Building and fire codes, zoning ordinances, and business licensing requirements.

~~((12))~~ (15) Upon failure to respond to the board licensing and regulation division's requests for information within the timeline provided, the application may be administratively closed or denial of the application will be sought.

WAC 314-55-050 Reasons the board may seek denial, suspension, or cancellation of a marijuana license application or license. Following is a list of reasons the board may deny, suspend, or cancel a marijuana license application or license. Per RCW 69.50.331, the board has broad discretionary authority to approve or deny a marijuana license application for reasons including, but not limited to, the following:

(1) Failure to meet qualifications or requirements for the specific marijuana producer, processor, or retail license, as outlined in this chapter and chapter 69.50 RCW.

(2) Failure or refusal to submit information or documentation requested by the board during the evaluation process.

(3) The applicant makes a misrepresentation of fact, or fails to disclose a material fact to the board during the application process or any subsequent investigation after a license has been issued.

(4) Failure to meet the criminal history standards outlined in WAC 314-55-040.

(5) Failure to meet the marijuana law or rule violation history standards outlined in WAC 314-55-045.

(6) The source of funds identified by the applicant to be used for the acquisition, startup and operation of the business is questionable, unverifiable, or determined by the board to be gained in a manner which is in violation by law.

(7) Denies the board or its authorized representative access to any place where a licensed activity takes place or fails to produce any book, record or document required by law or board rule.

(8) Has been denied or had a marijuana license or medical marijuana license suspended or canceled in another state or local jurisdiction.

(9) Where the city, county, tribal government, or port authority has submitted a substantiated objection per the requirements in RCW 69.50.331 (7) and (9).

(10) The board shall not issue a new marijuana license if the proposed licensed business is within one thousand feet of the perimeter of the grounds of any of the following entities. The distance shall be measured as the shortest straight line distance from the property line of the proposed building/business location to the property line of the entities listed below:

(a) Elementary or secondary school;

(b) Playground;

(c) Recreation center or facility;

(d) Child care center;

(e) Public park;

(f) Public transit center;

(g) Library; or

(h) Any game arcade (where admission is not restricted to persons age twenty-one or older).

(11)(a) A city or county may by local ordinance permit the licensing of marijuana businesses within one thousand feet but not less than one hundred feet of the facilities listed in subsection (10) of this section except elementary and secondary schools, and playgrounds.

(b) If a licensee applies for a marijuana license at a location less than one thousand feet of a recreation center or facility, child care center, public park, public transit center, library, or game ar-

cade, the licensee must provide the WSLCB with a copy of the local ordinance that describes the distance required by the city or county where the facility will be located.

~~(12)~~ (12) Has failed to pay taxes or fees required under chapter 69.50 RCW or failed to provide production, processing, inventory, sales and transportation reports to documentation required under this chapter.

~~((12))~~ (13) Failure to submit an attestation that they are current in any tax obligations to the Washington state department of revenue.

~~((13))~~ (14) Has been denied a liquor license or had a liquor license suspended or revoked in this or any other state.

~~((14))~~ (15) The operating plan does not demonstrate, to the satisfaction of the board, the applicant is qualified for a license.

~~((15))~~ (16) Failure to operate in accordance with the board approved operating plan.

~~((16))~~ (17) The board determines the issuance of the license will not be in the best interest of the welfare, health, or safety of the people of the state.

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-075 What is a marijuana producer license and what are the requirements and fees related to a marijuana producer license?

(1) A marijuana producer license allows the licensee to produce, harvest, trim, dry, cure, and package marijuana into lots for sale at wholesale to marijuana processor licensees and to other marijuana producer licensees. A marijuana producer can also produce and sell marijuana plants, seed, and plant tissue culture to other marijuana producer licensees. Marijuana production must take place within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors. Outdoor production may take place in nonrigid greenhouses, other structures, or an expanse of open or cleared ground fully enclosed by a physical barrier. To obscure public view of the premises, outdoor production must be enclosed by a sight obscure wall or fence at least eight feet high. Outdoor producers must meet security requirements described in WAC 314-55-083.

(2) The application fee for a marijuana producer license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(3) The annual fee for issuance and renewal of a marijuana producer license is one thousand dollars. The board will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee will be responsible for all fees required for the criminal history checks.

(4) The board will initially limit the opportunity to apply for a marijuana producer license to a thirty-day calendar window beginning with the effective date of this section. In order for a marijuana producer application license to be considered it must be received no later than thirty days after the effective date of the rules adopted by the board. The board may reopen the marijuana producer application

window after the initial evaluation of the applications received and at subsequent times when the board deems necessary.

(5) Any entity and/or principals within any entity are limited to no more than three marijuana producer licenses.

(6) The maximum amount of space for marijuana production (~~(is initially limited to two million square feet, to be increased based on marketplace demand, but not to exceed eight and one half million square feet without board approval)~~) will be imposed at a later date. Applicants must designate on their operating plan the size category of the production premises and the amount of actual square footage in their premises that will be designated as plant canopy. There are three categories as follows:

(a) Tier 1 - Less than two thousand square feet;

(b) Tier 2 - Two thousand square feet to ten thousand square feet; and

(c) Tier 3 - Ten thousand square feet to thirty thousand square feet.

(7) The board may reduce a licensee's or applicant's square footage designated to plant canopy for the following reasons:

(a) If the amount of square feet of production of all licensees exceeds the maximum (~~(of two million)~~) square feet the board will reduce the allowed square footage by the same percentage.

(b) If fifty percent production space used for plant canopy in the licensee's operating plan is not met by the end of the first year of operation the board may reduce the tier of licensure.

(8) If the total amount of square feet of marijuana production exceeds (~~(two million)~~) the maximum square feet, the board reserves the right to reduce all licensee's production by the same percentage or reduce licensee production by one or more tiers by the same percentage.

(9) The maximum allowed amount of marijuana on a producer's premises at any time is as follows:

(a) Outdoor or greenhouse grows - One and one-quarter of a year's harvest; or

(b) Indoor grows - Six months of their annual harvest.

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-077 What is a marijuana processor license and what are the requirements and fees related to a marijuana processor license? (1) A marijuana processor license allows the licensee to process, dry, cure, package, and label usable marijuana, marijuana concentrates, and marijuana-infused products for sale at wholesale to marijuana processors and marijuana retailers.

(2) A marijuana processor is allowed to blend tested usable marijuana from multiple lots into a single package for sale to a marijuana retail licensee providing the label requirements for each lot used in the blend are met and the percentage by weight of each lot is also included on the label.

(3) A marijuana processor licensee must obtain approval from the liquor control board for all marijuana-infused products, labeling, and packaging prior to offering these items for sale to a marijuana retailer. The marijuana processor licensee must submit a picture of the

product, labeling, and packaging to the liquor control board for approval.

If the liquor control board denies a marijuana-infused product for sale in marijuana retail outlets, the marijuana processor licensee may request an administrative hearing per chapter 34.05 RCW, Administrative Procedure Act.

(4) Marijuana-infused edible products in solid form must meet the following requirements:

(a) If there is more than one serving in the package, each serving must be packaged individually in childproof packaging (see WAC 314-55-105(7)) and placed in the outer package.

(b) The label must prominently display the number of servings in the package.

(c) Marijuana-infused solid edible products must be homogenized to ensure uniform disbursement of cannabinoids throughout the product.

(d) All marijuana-infused solid edibles must prominently display on the label "This product contains marijuana."

(5) Marijuana-infused edible products in liquid form must meet the following requirements:

(a) If there is more than one serving in the package, a measuring device must be included in the package with the product.

(b) The label must prominently display the number of servings in the package and the amount of product per serving.

(c) Marijuana-infused liquid edibles must be homogenized to ensure uniform disbursement of cannabinoids throughout the product.

(d) All marijuana-infused liquid edibles must prominently display on the label "This product contains marijuana."

(6) A marijuana processor is limited in the types of food or drinks they may infuse with marijuana. Marijuana-infused products that are especially appealing to children are prohibited. Marijuana-infused edible products such as, but not limited to, gummy candies, lollipops, cotton candy, or brightly colored products, are prohibited.

(a) To reduce the risk to public health, potentially hazardous foods as defined in WAC 246-215-01115 may not be infused with marijuana. Potentially hazardous foods require time-temperature control to keep them safe for human consumption and prevent the growth of pathogenic microorganisms or the production of toxins. Any food that requires refrigeration, freezing, or a hot holding unit to keep it safe for human consumption may not be infused with marijuana.

(b) Other food items that may not be infused with marijuana to be sold in a retail store are:

(i) Any food that has to be acidified to make it shelf stable;

(ii) Food items made shelf stable by canning or retorting;

(iii) Fruit or vegetable juices (this does not include shelf stable concentrates);

(iv) Fruit or vegetable butters;

(v) Pumpkin pies, custard pies, or any pies that contain egg;

(vi) Dairy products of any kind such as butter, cheese, ice cream, or milk; and

(vii) Dried or cured meats.

(c) Vinegars and oils derived from natural sources may be infused with dried marijuana if all plant material is subsequently removed from the final product. Vinegars and oils may not be infused with any other substance, including herbs and garlic.

(d) Marijuana-infused jams and jellies made from scratch must utilize a standardized recipe in accordance with 21 C.F.R. Part 150, revised as of April 1, 2013.

(e) Per WAC 314-55-104, a marijuana processor may infuse dairy butter or fats derived from natural sources and use that extraction to prepare allowable marijuana-infused solid or liquid products meant to be ingested orally, but the dairy butter or fats derived from natural sources may not be sold as stand-alone products.

(f) The liquor control board may designate other food items that may not be infused with marijuana.

(7) The recipe for any marijuana-infused solid or liquid products meant to be ingested orally must be kept on file at the marijuana processor's licensed premises and made available for inspection by the liquor control board or its designee.

(8) The application fee for a marijuana processor license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(9) The annual fee for issuance and renewal of a marijuana processor license is one thousand dollars. The board will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee will be responsible for all fees required for the criminal history checks.

(10) A marijuana processor producing a marijuana-infused solid or liquid product meant to be ingested orally in a processing facility as required in WAC 314-55-015(10) must pass a processing facility inspection. Ongoing annual processing facility compliance inspections may be required. The liquor control board will contract with the department of agriculture to conduct required processing facility inspections. All costs of inspections are borne by the licensee and the hourly rate for inspection is sixty dollars. A licensee must allow the liquor control board or their designee to conduct physical visits and inspect the processing facility, recipes and required records per WAC 314-55-087 during normal business hours or at any time of apparent operation without advance notice. Failure to pay for the processing facility inspection or to follow the processing facility requirements outlined in this section and WAC 314-55-015 will be sufficient grounds for the board to suspend or revoke a marijuana license.

(11) The board will initially limit the opportunity to apply for a marijuana processor license to a thirty-day calendar window beginning with the effective date of this section. In order for a marijuana processor application license to be considered it must be received no later than thirty days after the effective date of the rules adopted by the board. The board may reopen the marijuana processor application window after the initial evaluation of the applications that are received and processed, and at subsequent times when the board deems necessary.

(12) A currently licensed marijuana producer may submit an application to add a marijuana processor license at the location of their producer license providing they do not already hold three processor licenses.

(13) Any entity and/or principals within any entity are limited to no more than three marijuana processor licenses.

~~((13))~~ (14) Marijuana processor licensees are allowed to have a maximum of six months of their average usable marijuana and six months average of their total production on their licensed premises at any time.

~~((14))~~ (15) A marijuana processor must accept returns of products and sample jars from marijuana retailers for destruction, but is not required to provide refunds to the retailer. It is the responsi-

bility of the retailer to ensure the product or sample jar is returned to the processor.

NEW SECTION

WAC 314-55-080 Medical marijuana endorsement. Existing retail license holders and applicants for an initial retail license may apply for a medical endorsement.

(1) A medical marijuana endorsement added to a marijuana retail license allows the marijuana retail licensee to:

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

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

(2) **To maintain a medical marijuana endorsement in good standing, a marijuana retailer must:**

(a) Follow all rules adopted by the department of health regarding marijuana in chapters 246-70, 246-71, and 246-72 WAC;

(b) Have at least one medical marijuana consultant certificate holder on staff with an active credential issued by the department of health under chapter 246-72 WAC;

(c) Prohibit the use of marijuana by anyone, including qualifying patients, at the retail outlet at all times;

(d) Maintain at all times a representative assortment of marijuana products necessary to meet the needs of qualified patients and designated providers. Beginning with the second renewal cycle, not less than twenty-five percent of a marijuana retail outlet's inventory, excluding paraphernalia, must consist of products meeting the requirements of chapter 246-70 WAC. Failure to maintain adequate inventory of such products may result in revocation of the medical marijuana endorsement;

(e) Not market marijuana concentrates, usable marijuana, or marijuana-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 marijuana authorization data base established by the department of health;

(g) Agree to enter qualifying patients and designated providers into the data base and issue recognition cards in compliance with the department of health rules found in chapter 246-71 WAC;

(h) Keep copies of the qualifying patient's or designated provider's recognition card or equivalent records to document the validity of tax exempt sales;

(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 marijuana authorization data base;

(ii) Identification of valid recognition cards; and

(iii) Recognition of strains, varieties, THC concentration, CBD concentration, and THC to CBD ratios of marijuana concentrates, usable marijuana, and marijuana-infused products available for sale when assisting qualifying patients and designated providers at the retail outlet.

(3) **A marijuana retailer holding a medical marijuana endorsement may sell products with a THC concentration of 0.3 percent or less.** The licensee may also provide these products at no charge to qualifying patients or designated providers who hold a valid recognition card.

(4) **Unlicensed practice of medicine.** No owner, employee, or volunteer of a retail outlet holding a medical marijuana 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 marijuana 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 marijuana products.

(5) Failure to comply with subsection (4) of this section may result in suspension or revocation of the medical marijuana endorsement.

AMENDATORY SECTION (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

WAC 314-55-081 Who can apply for a marijuana retailer license?

(1) The WSLCB may accept applications for marijuana retail licenses at time frames published on its web site at lcb.wa.gov. Using estimated consumption data and population data obtained from the office of financial management (OFM) population data, the liquor control board will determine the maximum number of marijuana retail locations per county.

The number of retail locations will be determined using a method that distributes the number of locations proportionate to the most populous cities within each county and to accommodate the medical needs of qualifying patients and designated providers. Locations not assigned to a specific city will be at large. At large locations can be used for unincorporated areas in the county or in cities within the county that have no retail licenses designated. ~~((Once the number of locations per city and at large have been identified, the eligible applicants will be selected by lottery in the event the number of applications exceeds the allotted amount for the cities and county. Any lottery conducted by the board will be witnessed by an independent third party.))~~

(2) The number of ~~((marijuana))~~ retail licenses determined by the board can be found on the ~~((liquor control board))~~ WSLCB web site at ~~((www.liq.wa.gov))~~ lcb.wa.gov.

(3) Any entity and/or principals within any entity are limited to no more than three retail marijuana licenses ~~((with no multiple location licensee allowed more than thirty three percent of the allowed licenses in any county or city.))~~

~~((4) The board will initially limit the opportunity to apply for a marijuana retailer license to a thirty day calendar window beginning with the effective date of this section. In order for a marijuana retailer license application to be considered it must be received no later than thirty days after the effective date of the rules adopted by the board. The board may reopen the marijuana retailer application window after the initial evaluation of the applications received and at subsequent times when the board deems necessary)).~~



Washington State
Liquor and Cannabis Board

Date: April 6, 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 to file Emergency Rules to create laboratory proficiency testing requirements and suspension/revocation of laboratory certification.**

Emergency rules are needed to protect consumer safety through ensuring laboratories employ appropriate testing methodologies and achieve accurate testing results for marijuana. Creating proficiency testing requirements to achieve and maintain certification and parameters for laboratories will promote accuracy and accountability in marijuana testing by certified laboratories. Additionally, current permanent rules provide how a laboratory may be certified by the WSLCB, but do not contain provisions on what a laboratory must do to remain certified or how the WSLCB may suspend or revoke the certification of a laboratory. WSLCB needs the authority to suspend or revoke the certification of a laboratory that does not follow rule requirements for testing or for those laboratories that do not consistently achieve accurate testing results.

The emergency rules are necessary for the preservation of the public health, safety, and general welfare. The rule becomes effective upon filing with the Code Reviser's Office and will expire August 4, 2016, 120 days after filing.

The emergency rules will become part of the permanent rulemaking the WSLCB is requesting the Board initiate if approval to file a CR 101 is granted. Staff will request refiling of the emergency rules on July 27, 2016 if the Board approves permanent rulemaking on this topic and the refiled emergency rule will only be effective until permanent rules become effective.

Process

The Rules Coordinator requests approval to file the Emergency Rules described above. An issue paper on these rule was presented at the Board meeting on April 6, 2016, and is attached to this order.

Emergency Rules – Lab PT and
Certification Suspension/Revocation

4/6/16
04.06.16 HANDOUT 3B-1



**Washington State
Liquor and Cannabis Board**

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

April 6, 2016	Board is asked to approve filing the Emergency Rules
April 6, 2016	The Emergency Rules become effective
July 27, 2016	Board is asked to approve refiling the Emergency Rules*

*Note: When staff requests refiling of the emergency rules, the refiled emergency rules will only be effective until permanent rules become effective if the Board approves permanent rulemaking on this topic.

_____ Approve _____ Disapprove _____
Jane Rushford, Chairman _____
Date

_____ Approve _____ Disapprove _____
Ruthann Kurose, Board Member _____
Date

Attachment: Issue Paper

Issue Paper

Emergency Rules for Laboratory Proficiency Testing and Certification Suspension and Revocation.

Date: April 6, 2016

Presented by: Joanna Eide, Policy and Rules Coordinator

Description of the Issue

The purpose of this Issue Paper is to request approval from the Board to file emergency rules to create new rules related to laboratory proficiency testing requirements and laboratory certification suspension and revocation.

Why is rule making necessary?

Emergency rules are needed to protect consumer safety through ensuring laboratories employ appropriate testing methodologies and achieve accurate testing results for marijuana. Creating proficiency testing requirements to achieve and maintain certification and parameters for laboratories will promote accuracy and accountability in marijuana testing by certified laboratories. Additionally, current permanent rules provide how a laboratory may be certified by the WSLCB, but do not contain provisions on what a laboratory must do to remain certified or how the WSLCB may suspend or revoke the certification of a laboratory. WSLCB needs the authority to suspend or revoke the certification of a laboratory that does not follow rule requirements for testing or for those laboratories that do not consistently achieve accurate testing results.

Process

The emergency rules are necessary for the preservation of the public health, safety, and general welfare. The rule becomes effective upon filing with the Code Reviser's Office and will expire August 4, 2016, 120 days after filing. The WSLCB will request that the emergency rules be refiled should the emergency rule expire prior to the effective date of permanent rules, which WSLCB will be requesting permission to initiate at this meeting.

What are the changes?

New Section. WAC 314-55-1025 Proficiency testing.

The emergency rule creates requirements for proficiency testing for laboratories seeking certification, and for certified laboratories to maintain certification. The rule requires that laboratories may only use proficiency testing programs that are approved by the WSLCB or WSLCB's vendor. Laboratories seeking certification must complete one successful round of proficiency testing and provide proof of the successful completion prior to receiving certification, and certified laboratories must complete a minimum of two successful rounds of proficiency testing for each field of testing per year to maintain certification. The rule also

provides requirements for laboratories that fail proficiency testing, as well as the ability of WSLCB to suspend a certification should the laboratory fail to successfully complete proficiency testing. Lastly, the rules detail an avenue for laboratories to remediate if the laboratory fails proficiency testing so that the laboratory's suspended certification may be reinstated.

New Section. WAC 314-55-1035 Laboratory certification – Suspension and revocation.

The emergency rule provides the ways in which the WSLCB may suspend or revoke the certification of laboratories that do not follow rule requirements for laboratories or testing of marijuana. The rule provides two separate levels of suspensions:

1. A summary suspension or revocation applying to more egregious and substantial violations, and
2. A graduated suspension and revocation approach for less serious violations.

The language also references suspensions for failing proficiency testing requirements under proposed WAC 314-55-1025. Lastly, the rule recognizes the right of a laboratory that receives a suspension or revocation to receive an administrative hearing if they choose under the provisions of the Administrative Procedure Act (Chapter 34.05 RCW).

N E W S E C T I O N

WAC 314-55-1025 Proficiency testing.

(1) For the purposes of this section, the following definitions apply:

(a) "Field of testing" means the categories of subject matter the laboratory tests, such as pesticide, microbial, potency, residual solvent, heavy metal, mycotoxin, foreign matter, and moisture content detection.

(b) "Proficiency testing (PT)" means the analysis of samples by a laboratory obtained from providers where the composition of the sample is unknown to the laboratory performing the analysis and the results of the analysis are used in part to evaluate the laboratory's ability to produce precise and accurate results.

(c) "Proficiency testing (PT) program" means an operation offered by a provider to detect a laboratory's ability to produce valid results for a given field of testing.

(d) "Provider" means a third party company, organization, or entity not associated with certified laboratories or a laboratory seeking certification that operates an approved PT program and provides samples for use in PT testing.

(e) "Vendor" means an organization(s) approved by the WSLCB to certify laboratories for marijuana testing, approve PT programs, and perform on-site assessments of laboratories.

(2) WSLCB or its vendor determines the sufficiency of proficiency tests (PT) and maintains a list of approved PT programs. Laboratories may request authorization to conduct PT through other PT programs but must obtain approval for the PT program from WSLCB or WSLCB's vendor prior to conducting PT. The WSLCB may add the newly approved PT program to the list of approved PT programs as appropriate.

(3) As a condition of certification, laboratories must participate in proficiency testing (PT) for each field of testing for which the lab will be or is certified.

(4) A laboratory must successfully complete a minimum of one round of PT for each field of testing and provide proof of the successful PT results prior to initial certification.

(5) A certified laboratory must participate in a minimum of two rounds of PT per year for each field of testing to maintain its certification.

(a) Laboratories already certified by the WSLCB at the time of the effective date of this section must register for the next available round of PT offered by an WSLCB or WSLCB vendor approved provider for each available field of testing unless the certified laboratory provides proof of successful completion of PT for each available field of testing within six (6) months prior to the effective date of this section.

(b) To maintain certification, the laboratory must achieve a passing score, on an on-going basis, in a minimum of two out of three successive rounds of PT. At least one of the scores must be from a round of PT that occurs within six (6) months prior to the laboratory's certification renewal date.

(6) If a laboratory fails a round of PT, the laboratory must investigate the root cause of the laboratory's performance and establish a corrective action report for each unsatisfactory analytical result. The corrective action report must be kept and maintained by the laboratory for a period of three (3) years, available for review during an on-site assessment or inspection, and provided to the WSLCB or WSLCB's vendor upon request.

(7) Laboratories are responsible for obtaining PT samples from vendors approved by WSLCB or WSLCB's vendor. Laboratories are responsible for all costs associated with obtaining PT samples and rounds of PT.

(8) The laboratory must manage, analyze and report all PT samples in the same manner as customer samples, including but not limited to adhering to the same sample tracking, sample preparation, analysis methods, standard operating procedures, calibrations, quality control, and acceptance criteria used in testing customer samples.

(9) The laboratory must authorize the PT provider to release all results used for certification and/or remediation of failed studies to WSLCB or WSLCB's vendor.

(10) The WSLCB may require the laboratory to submit raw data and all photographs of plated materials along with the report of analysis of PT samples. The laboratory must keep and maintain all raw data and all photographs of plated materials from PT for a period of three (3) years.

(11) The WSLCB may waive proficiency tests for certain fields of testing if PT samples or PT programs are not readily available or for other valid reasons as determined by WSLCB.

(12)(a) The WSLCB will suspend a laboratory's certification if the laboratory fails to maintain a passing score on an on-going basis in two out of three successive PT studies. The WSLCB may reinstate a laboratory's suspended certification if the laboratory successfully analyzes PT samples from a WSLCB or WSLCB's vendor approved PT provider, so long as the supplemental PT studies are performed at least fifteen (15) days apart from the analysis date of one PT study to the analysis date of another PT study.

(b) The WSLCB will suspend a laboratory's certification if the laboratory fails two consecutive rounds of PT. WSLCB may reinstate a laboratory's suspended certification once the laboratory conducts an investigation, provides the WSLCB a deficiency report identifying the root cause of the failed PT, and successfully analyzes PT samples from a WSLCB or WSLCB's vendor approved PT provider. The supplemental PT studies must be performed at least fifteen (15) days apart from the analysis date of one PT study to the analysis date of another PT study.

(13) If a laboratory fails to remediate and have its certification reinstated under subsections (12)(a) or (b) of this section within six (6) months of the suspension, the laboratory must reapply for certification as if the laboratory was never certified previously.

(14) A laboratory that has its certification suspended or revoked under this section may request an administrative hearing to contest the suspension as provided in chapter 34.05 RCW.

N E W S E C T I O N

WAC 314-55-1035 Laboratory certification - Suspension and revocation.

(1) The board may summarily suspend or revoke the certification of any third-party testing lab certified under WAC 314-55-102 for any of the following reasons:

(a) The laboratory owner or science director violates any of the requirements of chapter 314-55 WAC relating to the operations of the laboratory.

(b) The laboratory owner or science director aids, abets, or permits the violation of any provision of chapter 314-55 WAC, chapter 69.50 RCW, chapter 69.51A RCW, or Titles 9 or 9A RCW related to the operations of the laboratory, or the laboratory owner or science director permits laboratory staff to do so.

(c) Evidence the certificate holder or owner made false statements in any material regard:

(i) On the application for certification;

(ii) In submissions to the Board relating to receiving or maintaining certification; or

(iii) Regarding any testing performed or results provided to WSLCB or the marijuana licensee by the certificate holder or owner pursuant to WAC 314-55-102.

(d) The laboratory owner or science director is convicted of any crime substantially related to the qualifications or duties of that owner and related to the functions of the laboratory, including a conviction for falsifying any report of or that relates to a laboratory analysis. For purposes of this subsection, a "conviction" means a plea or finding of guilt regardless of whether the imposition of sentence is deferred or the penalty is suspended.

(e) The laboratory submits proficiency test sample results generated by another laboratory as its own.

(f) The laboratory staff denies entry to any employee of the WSLCB or WSLCB's vendor during normal business hours for an

onsite assessment or inspection, as required by WAC 314-55-102, 314-55-1025, or WAC 314-55-103.

(2)(a) The following violations are subject to the penalties as provided in subsection (2)(b) of this section:

(i) The laboratory fails to submit an acceptable corrective action report in response to a deficiency report, and failure to implement corrective action related to any deficiencies found during a laboratory assessment.

(ii) The laboratory fails to report proficiency testing results pursuant to WAC 314-55-1025.

(iii) The laboratory fails to remit certification fees within the time limit established by a certifying authority.

(iv) The laboratory fails to meet records-keeping requirements as required by chapter 314-55 WAC unless the failure to maintain records is substantial enough to warrant a suspension or revocation under subsection (1) of this section.

(b) The penalties for the violations in subsection (2)(a) of this section are as follows:

(i) First violation: 10-day suspension of laboratory certification or until the laboratory corrects the violation leading to the suspension, whichever is longer.

(ii) Second violation within a three-year period: 30-day suspension of laboratory certification or until the laboratory corrects the violation leading to the suspension, whichever is longer.

(iii) Third violation within a three-year period: Revocation of laboratory certification under WAC 314-55-102.

(3) A laboratory may also be subject to a suspension of certification related to proficiency testing requirements under WAC 314-55-1025.

(4) A laboratory that has its certification suspended or revoked under this section may request an administrative hearing to contest the suspension or revocation as provided in chapter 34.05 RCW.



Washington State
Liquor and Cannabis Board

Date: April 6, 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 create two new sections in Chapter 314-55 Marijuana Licenses, Application Process, Requirements, and Reporting.**

New rules are needed to protect consumer safety through ensuring laboratories employ appropriate testing methodologies and achieve accurate testing results for marijuana. Creating proficiency testing requirements to achieve and maintain certification and parameters for laboratories will promote accuracy and accountability in marijuana testing by certified laboratories. Additionally, current permanent rules provide how a laboratory may be certified by the WSLCB, but do not contain provisions on what a laboratory must do to remain certified or how the WSLCB may suspend or revoke the certification of a laboratory. WSLCB needs the authority to suspend or revoke the certification of a laboratory that does not follow rule requirements for testing or for those laboratories that do not consistently achieve accurate testing results.

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 6, 2016, and is attached to this order.

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

April 6, 2016	Board is asked to approve filing the pre-proposal statement of inquiry (CR 101)
April 20, 2016	Code Reviser publishes notice, LCB sends notice to rules distribution list

Washington State Liquor and Cannabis Board

Issue Paper

Laboratory Proficiency Testing and Certification Suspension and Revocation Rules.

Date: April 6, 2016

Presented by: Joanna Eide, Policy and Rules Coordinator

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 two new sections addressing laboratory proficiency testing and laboratory certification suspension and revocation rules in Chapter 314-55 WAC Marijuana Licenses, Application Process, Requirements, and Reporting.

Why is rule making necessary?

New rules are needed to protect consumer safety through ensuring laboratories employ appropriate testing methodologies and achieve accurate testing results for marijuana. Creating proficiency testing requirements to achieve and maintain certification and parameters for laboratories will promote accuracy and accountability in marijuana testing by certified laboratories. Additionally, current permanent rules provide how a laboratory may be certified by the WSLCB, but do not contain provisions on what a laboratory must do to remain certified or how the WSLCB may suspend or revoke the certification of a laboratory. WSLCB needs the authority to suspend or revoke the certification of a laboratory that does not follow rule requirements for testing or for those laboratories that do not consistently achieve accurate testing results.

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.