



CR 103 Memorandum

Cannabis Samples Rulemaking (WAC 314-55-096)

Date: March 26, 2025
Presented by: Justin Nordhorn, Director of Policy and External Affairs

Background

On August 31, 2022, the Washington State Liquor and Cannabis Board (LCB) [accepted](#) a petition for rulemaking submitted by Vicki Christopherson, on behalf of the Washington Association of Cannabis Businesses (WACA) requesting the Board consider rulemaking to amend [WAC 314-55-096](#) regarding vendor, educational, and internal quality samples (cannabis samples) to streamline the existing framework.

The rulemaking was initiated on March 1, 2023, and the CR-101 was filed as [WSR 23-06-079](#). An informal public comment period was open [until April 13, 2023](#), during which time many stakeholders reached out and provided comments on ways to improve the sampling rule, such as the elimination of vendor samples, relaxation of quality control sample restrictions, and the need for larger sample sizes.

Public Engagement

The project team consists of representation from the Attorney General's Office, Enforcement & Education division, Licensing division, and the Finance division. An in-person discussion was held on March 9, 2023, and included direct engagement with industry members. The LCB sent stakeholder surveys in July 2023 and held virtual collaborative rulemaking discussions in October 2023, which included a PowerPoint linked [here](#).

Initial Rule Proposal (CR-102 filed Aug. 14, 2024).

On Aug. 14, 2024, the Board approved filing of the CR-102 of proposed rules, filed as [WSR 24-17-051](#). The memorandum included with the filing can be found [here](#) along with hundreds of pages of attached materials. The goals of the initial proposed files, as stated in the CR 102 memo, are repeated here:

1. **Unified Sample Category - 'Trade Samples':** This category merges vendor and educational samples to reduce regulatory complexity and better align with industry practices.

2. **Representative Sample Sizes:** Ensures that trade samples reflect the smallest marketable product size to accurately represent consumer products, aiding in more informed business decisions.
3. **Quarterly Provision Limits:** Transitioning to quarterly limits accommodates the operational cycles of producers, particularly those with seasonal outdoor production schedules.
4. **Equivalency Standards for Different Product Types:** Standard limits across various product types ensure fair and consistent sampling practices.
5. **Traceability and Recordkeeping:** All trade samples must be documented in the state's traceability system, including detailed records of product type, trade name, and the receiving licensee. This ensures transparency and facilitates compliance monitoring.
6. **Designated Storage Areas:** Trade samples must be stored in designated areas separate from non-sample inventory. This separation is crucial for preventing contamination and ensuring samples are easily identifiable for audit and compliance checks.
7. **Employee Sampling:** Employees of licensees can receive up to 16 trade sample units per calendar quarter. These samples must be used strictly for educational purposes and are not to be used as compensation or incentives.
8. **Limits on Sample Distribution:** Producers can distribute up to 96 trade sample units of cannabis per calendar quarter to processors, allowing comprehensive product assessment. Processors may provide up to 120 trade sample units of various cannabis products to retailers per quarter, facilitating extensive staff training and product familiarization.
9. **Sample Jar Modifications:** Changes include requirements for sample jars to be transparent, allowing customers to view and smell the product. This modification enhances consumer interaction with the product without compromising safety.

Supplemental Rule Proposal (CR-102 filed January 29, 2025)

Following the proposed rules filing, a public comment period was open until the public hearing held on October 9, 2024. During this period, eight comments were received. Based on the feedback both during the public hearing and via the public comment period, agency staff sought further industry feedback on potential ways to revise the proposed rules to better serve agency and industry goals, while maintaining public health and safety objectives. Many conversations occurred with licensees and stakeholders between October and December 2024.

The Supplemental CR-102 was filed on January 29, 2025 and filed as [WSR 25-04-042](#). It made the following changes to the initial CR-102 filed as [WSR 24-17-051](#):

1. **Display of Trade Sample Jars:** Language was added to WAC 314-55-096(1)(j) to clarify that trade samples jars can be displayed at retailers near the product it is a sample of.
2. **Increase of Trade Sample Allowance per Employee:** Based on stakeholder feedback, the quarterly allotment per employee for trade samples was increased from 15 per quarter to 30 per quarter. As a quarter lasts three months, this comes out to roughly 10 samples per month, or 5 every 14 days. This addresses concerns of daily or near daily use. A goal of the rulemaking has always been to stay away from providing daily samples to employees, as an attempt to not encourage daily or near daily consumption.
3. **Increased Distinction Between Trade Samples and Internal Quality Control Samples:** Clarified that trade samples and internal quality control samples are different in several relevant ways, and highlighting that, for example, internal quality control sample do not need to comply with packaging and labeling requirements in 314-55 WAC. Also clarified that internal quality control samples are not the same thing as samples described in WAC 314-55-101 used for testing to comply with WAC 314-55-102 and WAC 314-55-109. Additional recognition of the distinction between trade and internal quality control samples required new definitions of the relevant sample unit size requirements for internal quality control samples.
4. **Reduced Permitted Sample Limits for THC Concentrates:** In recognition of the relevant THC disparity between concentrates and other cannabis products, the rules now specify the relevant thresholds for THC concentrates when it comes to employee allotment of samples.
5. **Moved from “per harvest” and “per batch” metric to “per employee:”** Based on internal and stakeholder feedback, measuring producer samples by “per harvest” and processor samples by “per batch” was replaced with a universal measurement for “per employee per quarter” over concerns of enforceability and practicality regarding traceability and compliance. The “per employee” approach was a recommendation from licensee stakeholders.
6. **Added time for licensees to use old samples, labels, and jars:** The revised rule language states that all samples previously known as educational, or vendor samples have to be disposed of by Sept. 1, 2025. This will allow licensees to use up previously made jars, labels, and samples without having to dispose of many samples for sunk costs.

The public hearing on the Supplemental CR-102 was held on March 12, 2024. No stakeholders testified at that hearing and no stakeholders provided written comment during the formal comment period.

Variance between proposed rule (CR-102) and final rule:

No changes have been made to the proposed rule language included with the Supplemental CR 102.

Rule Implementation (RCW 34.05.328(3)(a))

Informing and Educating Persons Impacted by the Rule (RCW 34.05.328(3)(b))

To help inform and educate persons impacted by the rule, the LCB will:

- Email notice with the adoption materials to persons who commented on the rules, the rule making and licensee distribution lists, and the general LCB GovDelivery list;
- Post rule adoption materials, including final rule language, response to comments, final analysis (Concise Explanatory Statement), and any other relevant documents on the rulemaking webpage for public access.

Promoting and Assisting Voluntary Compliance (RCW 34.05.328(3)(c))

LCB will promote and assist voluntary compliance through technical assistance.

- LCB staff are available to respond to phone and email inquiries about the rules.
- Agency leadership and staff have actively participated in rule development and revisions and are familiar with the final product. Internal and external education efforts to share knowledge and assure consistent application of rule will be supported.
- Rule and guidance documents will be available on the LCB website.
- LCB will use available and customary resources to disseminate materials and information to all persons impacted by the rules.

These actions are designed to inform and educate all persons impacted by the rules to support and promote voluntary compliance.

Training and Informing LCB Staff

Several LCB staff responsible for implementing these adopted rules work directly with impacted parties and are already familiar with the nuances of the rule changes. Additional internal guidance documents may be prepared as necessary. The LCB will also consider:

- Provision of internal and external training and education, as needed, potentially including webinars, training, and videos if appropriate;
- Coordinating and centrally locating decisions to assure consistency between agency, staff, and industry.

Rule Effectiveness Evaluation (RCW 34.05.328(3)(d))

After the rule becomes effective, the LCB will evaluate the effectiveness of this rule in the following ways, including but not limited to:

- Monitoring questions received after the effective date of this rule, and adjusting training and guidance accordingly;
- Monitoring the number of enforcement actions, including type, resolution, and the outcome;
- Monitoring the number of requests for rule language revisions or changes;
- Monitoring the number of requests for rule interpretation;
- Monitoring licensee feedback including, but not limited to, the number of requests for assistance.