



Washington State Liquor and Cannabis Board

CR-101 Memorandum

Re: Clarifying cannabis research and development (R&D) testing, reporting, and sample requirements

Date: August 28, 2025

Presented by: Denise Laflamme, Policy and Rules Coordinator

Background

The Board accepted a rulemaking petition on May 7, 2025, submitted by Stephanie Reilly, General Counsel for Confidence Analytics, a third-party certified testing laboratory. The petition requested that the Board initiate rulemaking to consider amending chapter 314-55 WAC related to updating definitions and other applicable components to clarify requirements for cannabis testing and reporting of test results conducted for research and development (R&D) purposes. In addition, this rulemaking will consider establishing requirements for cannabis samples that licensees use during product development, that differ from internal quality control samples, as follow-up to rulemaking completed in April 2025 under [WSR 25-08-032](#).

Statutes

[RCW 69.50.101](#) Provides definitions including cannabis-related terms. Does not include a term that defines and refers to required cannabis tests.

[RCW 69.50.342](#) and [RCW 69.50.345](#) identify the Board's rulemaking authority over cannabis. [RCW 69.50.342](#) describes LCB rulemaking authority related to setting cannabis product standards.

[RCW 69.50.348](#) describes requirements for cannabis producers and processors to submit samples of cannabis and cannabis products to third-party testing laboratories to comply with product standards. Requires that licensees must submit testing results to the board on a form developed by the board.

[RCW 69.50.375](#) describes LCB and Department of Health rulemaking authority for setting requirements for cannabis products to be sold to patients, including testing requirements.

[RCW 15.150.030](#) authorizes the Department of Agriculture to adopt rules related to establishing and maintaining cannabis testing laboratory quality standards.

Regulations

[WAC 314-55-010](#) Provides definitions for cannabis products and related terms. Does not include a term that defines what constitutes required testing of cannabis.

[WAC 314-55-083](#) defines security and traceability requirements for cannabis licensees that includes reporting of quality assurance test results into the state's traceability system. LCB's current traceability system is the Cannabis Central Reporting System (CCRS).

[WAC 314-55-096](#) describes requirements and sample limits related to cannabis trade samples, retail display samples, and internal quality control samples.

[WAC 314-55-102](#) specifies cannabis testing requirements including analysis of cannabinoid concentrations and testing for other parameters (e.g., mycotoxins, solvents, metals) including amount or concentration limits for compliance. (2)(b) Requires that certified laboratories must report quality control test results directly to the board in the required format. (3)(g) Indicates that any product exceeding metals limits is subject to recall and destruction.

[WAC 314-55-108](#) provides information about the pesticides that may be used in the production of cannabis and pesticide action levels.

[WAC 314-55-109](#) describes traceability and testing requirements of cannabinoid additives. Specifies that all test results as required by this section be reported into the state traceability system.

[WAC 314-55-220](#) describes the process for immediate destruction of cannabis and cannabis products.

[WAC 314-55-225](#) Cannabis recalls. Describes when recalls are required, including when solvents and pesticides have concentrations are found to be above action levels.

[Chapter 246-70 WAC](#) describes quality assurance testing requirements for Washington State Department of Health's (DOH) compliant cannabis products.

[Chapter 16-309 WAC](#) describes Washington State Department of Agriculture's (WSDA) cannabis laboratory quality standards program and requirements.

[Chapter 16-310 WAC](#) describes WSDA's cannabis laboratory accreditation program and requirements.

Reasons Why Rulemaking Is Needed

Rulemaking is necessary to define requirements for R&D samples that are submitted for testing to certified laboratories, to respond to a rulemaking petition accepted by the Board in May 2025. This petition requested amendments to

chapter 314-55 WAC to clarify language and requirements for cannabis laboratory testing and reporting of results generated as part of R&D.

Additionally, LCB indicated earlier in 2025 that rulemaking would be initiated later in the year to address R&D definitions and protocols¹ in response to questions and comments from laboratories and others in the industry related to confusion about requirements for reporting cannabis testing results to the LCB Central Cannabis Reporting System (CCRS).

Rulemaking will also consider adding new requirements for R&D samples used by producers and processors during product development. This relates to recently completed rulemaking for trade and quality control samples finalized in March 2025 under WSR 25-07-032. Feedback provided during the later stages of that rulemaking requested the addition of R&D samples, which was deferred for later rulemaking.

Process

The rulemaking process begins by announcing the Board's intent to consider changes to existing rules, adding new rule sections, or both, by filing a preproposal statement of inquiry (CR-101) form with the Office of the Code Reviser. This allows staff, stakeholders, industry partners, and all members of the authorizing environment to begin discussing proposed rule changes.

At this stage of the rulemaking process, no proposed language is offered. Any interested party may comment on this possible rulemaking during the designated comment period. Notice will be sent to all who have indicated that they want to receive notice of rule activity related to this preproposal statement of inquiry. The notice will identify the public comment period and where comments can be sent.

Attachment:

1. Petition response May 7, 2025, with attachments.



Topic: **Petition for Adoption, Amendment, or Repeal of a State Administrative Rule – Various sections in chapter 314-55 WAC related to cannabis testing terminology**

Date: May 7, 2025

Presented by: Kevin Walder, Policy & Rules Manager

Background

On March 19, 2025, Stephanie Reilly, General Counsel for Confidence Analytics, a third-party laboratory, submitted a petition for rulemaking to the Washington State Liquor and Cannabis Board (the Board) requesting the Board initiate rulemaking to amend various sections of chapter 314-55 WAC to accomplish the following:

- Clearly and succinctly define current terms such as “Quality Assurance Test Results,” “Quality Control Test Results,” and “Compliance Testing.”
- Create a new definition for “Mandatory State Compliance Testing” to identify all testing that must be entered into the seed-to-sale tracking system.
- Differentiate between “Non-Mandatory” testing (aka Research & Development or “R&D” testing) and “Mandatory State Compliance Testing”.
- Clarify that “non-Mandatory” testing or “R&D” testing is not subject to seed-to-sale tracking requirements.

Rationale for rule change

The Petitioner asserts that current rule language is not clear and that this ambiguity creates confusion among the regulated community that can result in compliance issues. Further, the petitioner asserts that recent LCB enforcement and education communications contradict past LCB guidance and communications, as well as the long-standing interpretation of the industry. It is, therefore, “imperative” that these terms be clearly defined in order to provide labs, licensees, and other stakeholders with clear direction.

Current Laws and Rules

The petitioner references 3 WAC sections that use different terms for describing required test results:

WAC 314-55-083(4)(k): “quality assurance test results”,
WAC 314-55-102(2)(b): “quality control test results” and (6)(c) “compliance testing”,
WAC 314-55-109: “test results as required.”

The term “quality assurance test results” is also used in several other sections, including:

WAC 314-55-087(1)(l), WAC 314-55-075(11), and WAC 314-55-096 (1)(h).

Other related terminology is used elsewhere, including:
WAC 314-55-102(1): “quality control testing”
WAC 314-55-102(4): “Required quality control tests”
WAC 314-55-102(4)(c)(iv): “require the following quality assurance tests”
WAC 314-55-108: “quality control tests”

Issue

Whether the Board should accept or deny the petition to initiate the rulemaking process to consider amending sections of chapter WAC 314-55 WAC to clarify and define cannabis testing terminology and reporting requirements.

Statutes & Regulations

Statutes

[RCW 69.50.101](#) Provides definitions including cannabis-related terms. Does not include a term that defines and refers to required cannabis tests.

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board in the required format. (3)(g) Indicates that any product exceeding metals limits is subject to recall and destruction.

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[WAC 314-55-220](#) describes the process for immediate destruction of cannabis and cannabis products.

[WAC 314-55-225](#) Cannabis recalls. Describes when recalls are required including when solvents and pesticides have concentrations are found to be above action levels.

[Chapter 246-70 WAC](#) describes quality assurance testing requirements for DOH compliant cannabis products.

Analysis

Currently there is no definition in statute or regulations for a singular term that describes required testing of cannabis and cannabis products. A few different terms are used in different WAC sections to address compliance testing of cannabis. As the petitioner points out, this has made complying with testing and reporting requirements confusing for some licensees and laboratories. Additionally, licensees indicate that they have understood that non-mandatory samples, i.e., samples submitted by individuals or licensees not intended for market, were not required to be reported into the LCB's traceability system as samples destined for retail sale are.

Cannabis samples are required to be tracked and to comply with traceability requirements in WAC 314-55-083. LCB Enforcement and Education staff have identified violations regarding samples and certificates of analysis with testing results not being entered in CCRS ([LCB GovDelivery March 26, 2025](#)).

Additionally, DOH currently has rulemaking open around cannabis testing of medically compliant products to include new requirements for terpene testing and lower (more protective) action levels for metals. It will be important to align terminology with DOH amended rules around "required" testing.

Intra-agency Impacts

Licensing and Regulation Division: No impact expected.

Enforcement and Education Division: The Enforcement and Education Division has recently been working with laboratories to clarify cannabis testing and reporting requirements.

There is a concern surrounding potentially hazardous products not being identified and possible diversion of samples that exceed limits for pesticides, solvents, etc. Education and Enforcement have reported observing laboratories with standard operating procedures that allow licensees to review testing results prior to reporting results in CCRS. This practice could result in laboratories not reporting failed test results which may lead to unsafe products entering the retail marketplace. LCB staff have identified failed tests not reported into CCRS, where those failed product lots were mixed with other passing products lots.¹

Public health: Has similar concerns regarding the possible diversion of samples that don't meet current standards for pesticides, etc. and that these can present a health hazard for consumers. Concern that nonmandatory or R&D samples subvert the process for identifying possibly hazardous products.

Policy and Rules: Recent rulemaking to implement 2SHB 2151 related to the transfer of lab accreditation from the LCB to WSDA ([WSR 25-09-167](#)) goes into effect on May 24, 2025. Because this petition references WAC sections impacted by this active rulemaking, new rulemaking cannot be initiated until June, when the current rule changes are in effect.

Conclusion

Based on ongoing discussions with laboratories and licensees related to cannabis testing requirements, LCB supports opening the rule development process to clarify language and reporting requirements for mandatory and nonmandatory testing, including internal quality control samples specifically related to product development.²

Recommendation

The Director's Office recommends the Board **accept** the petition to amend sections of chapter WAC 314-55 to clarify and define cannabis testing terminology and reporting requirements.

¹ [LCB, Labs Issue Response Background](#), April 9, 2025.

² [LCB, GovDelivery](#), April 10, 2025

Board Action

After considering the recommendation of Director's Office staff, the Board accepts/denies the petition for rulemaking submitted by Stephanie Reilly, Confidence Analytics, on March 19, 2025.

<u> X </u> Accept	<u> </u> Deny	 _____ Jim Vollendroff, Board Chair	<u>5/7/25</u> Date
<u> X </u> Accept	<u> </u> Deny	 _____ Ollie Garrett, Board Member	<u>5/7/25</u> Date
<u> X </u> Accept	<u> </u> Deny	 _____ Pete Holmes, Board Member	<u>5/7/25</u> Date

Attachments:

- 1) Petition email from Petitioner
- 2) Petitioner letter

References:

LCB GovDelivery March 26, 2025. [Follow Up Message to Labs Sent Feb. 28, 2025.](#)
LCB GovDelivery April 10, 2025. [CCRS Reporting Follow Up.](#)

From: [Stephanie Reilly](#)
To: [LCB DL Rules](#)
Subject: Petition for Amendment of Washington State Administrative Rule(s)
Date: Wednesday, March 19, 2025 2:13:40 PM
Attachments: [Petition for Rulemaking.pdf](#)

External Email

Please see the attached Petition for Rulemaking.
Thank you.

Stephanie Reilly

Stephanie Nicoll Reilly

General Counsel & Advisor

. *WA Limited Practice License*

. *Colorado*

Confidence Analytics





2025-03-19

PETITION FOR AMENDMENT OF WAC 314.01, 314.55.083, 314.55.102, 314.55.109 et al

Confidence Analytics, Inc. (Confidence), a certified Washington state scientific cannabis testing laboratory, respectfully submits this Petition in accordance with RCW 34.05.330, to seek an amendment(s) to the above-listed rules.

Confidence is seeking appropriate amendments, such that the rule(s) provide clear and succinct terminology with a corrected definition as to the meaning of the below-listed terms.

- WAC 314.01 Definitions. This subsection is devoid of any terminology which could provide guidance for the following rules.
- WAC 314.55.083(4)(k) references “quality assurance test results”
- WAC 314.55.102(2)(b) references “quality control test results”
- WAC 314.55.102(6)(c) references “compliance testing”
- WAC 314.55.109(5) references “test results as required”

Confidence seeks a definition to provide that “Mandatory State Compliance Testing,” or an equivalent term, be specifically identified and consistently used and that such testing results be required to be logged into the seed-to-sale tracking system (Tracking System).

Confidence seeks to differentiate non-mandatory (a.k.a. research and development or “R&D”) testing from Mandatory State Compliance Testing and such non-mandatory test results shall not be subject to being logged into the Tracking System.

We assert that a thorough review of the pertinent WAC provides no definitions of the above-referenced terms and no requirement regarding results of non-mandatory testing is addressed.

As such, with a variety of terms used in the WAC, Confidence Analytics asserts that the long standing interpretation of the above-referenced terms, as well as historical LCB behavior including past communications via BioTrack, Leaf and LCB website, have supported these terms collectively mean Mandatory State Compliance Testing.

Due to recent LCB enforcement and educational communications which are contradictory to the past LCB behavior, and in opposition to industry interpretation, a specific definition of such terms is now imperative in providing labs, licensees, and other stakeholders, clear direction and to support the agency rule of law and legal authority for such directive.

Below, following the published “Petition” form layout, please find our justification as well as proposed language.

Thank you in advance for your consideration.

Agency responsible for administering the rule:

Washington State Liquor and Cannabis Board (LCB)

We are requesting the agency to change an existing rule:

Rules: WAC 314.0, 314.55.083, 314.55.102, WAC 314.55.102, et al be amended to reflect clear, concise, and singular terminology to reference Mandatory State Compliance Testing. And further provide that such testing results are required to be reported into the seed-to-sale tracking system.

Secondly, that such rules reflect clear, concise and singular terminology for all other testing, specifically research and development, and that such Non-Mandatory Testing results shall be exempt from being logged into seed-to-sale tracking system.

We are requesting the following change:

“Quality assurance test results,” “quality control test results,” and “compliance testing” shall herein be referred to as “Mandatory State Compliance Testing” and test results from such testing shall be logged into the CCRS.

Furthermore, non-mandatory testing results shall be exempt from logging into the CCRS.

This change is needed because:

Historically, since industry inception, independent third party laboratories have been directed through LCB behavior (including website communications) and LCB supported vendors (Biotrack and Leaf) that “quality assurance and product standard” was synonymous with compliance samples. AND, that non-mandatory testing, or other NOT REQUIRED or **voluntary** testing, was outside of the requirement for results reporting.

New LCB enforcement behavior, including educational communications, suggest, forcefully, that third-party testing laboratories are to amend their data input on what, previously, has been considered a mid-level analytic review, to be included into the Tracking.

There is confusion and uncertainty in the rules.

There is no definitive definition of what testing is required to be logged into the Tracking System.

Laboratories, licensees as well as other industry stakeholders, do not want to operate with uncertainty.

The effect of this rule change will be:

Laboratories, licensees and other industry stakeholders will have a clear understanding of expectations and requirements.

The rule(s) are not clearly or simply stated:

As referenced above, the LCB behavior in directing that non-mandatory test results be uploaded in the Tracking system is a major deviation of LCB procedural requirements.

The rules are vague and ambiguous and must be clarified.