



Washington State Liquor Cannabis Board Meeting

Wednesday, November 30, 2016, 10:00 a.m.
LCB Headquarters - Boardroom
3000 Pacific Avenue SE, Olympia WA 98501

Meeting Minutes

1. CALL TO ORDER

Chair Jane Rushford called the regular meeting of the Washington State Liquor and Cannabis Board to order at 10:00 a.m. on Wednesday, Date, 2016. Member Ollie Garrett was also present.

2. APPROVAL OF MEETING MINUTES

MOTION: Member Garrett moved to approve the November 16, 2016, meeting minutes.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

3. EMPLOYEE ANNOUNCEMENTS

Swearing In of New Officers – Presenter Chief Nordhorn

Chief Justin Nordhorn introduced the incoming officers administered the oath of office and provided them with their badges.

Officer Ryan Keller

Start Date: March 1, 2016

Academy start date: June 28, 2016

Academy Graduation: November 2, 2016

Retail Unit – Region 2 - Federal Way

Officer Riley Kier

Start Date: March 1, 2016

Academy start date: June 28, 2016

Academy Graduation: November 2, 2016

Retail Unit – Region 1 - Olympia

Officer Dylan Wiltsey

Start Date: April 16, 2016

Academy start date: July 6, 2016

Academy Graduation: November 22, 2016

Retail Unit – Region 3 – Mountlake Terrace

Officer Eric Huska.

Officer Eric Huska moved to WA from Colorado. He served 12 years in the US Army and 13 years as a police officer with Montrose Police Department in Montrose, Colorado. Officer Huska has been assigned to the SWAT team, detective division and multijurisdictional drug task force. Officer Huska has a son and a daughter that are attending Colorado Mesa University in Grand Junction, Colorado. Officer Huska joined Region 2's Mountlake Terrace Retail Team on November 1, 2016.

Chair Rushford congratulated and welcomed the new officers.

4. ACTION ITEMS (A-D)

ACTION ITEM 4A - Board Approval of (CR 102) for Lab Testing and Quality Assurance Rules Review (Lab Certification and Proficiency Testing Rules and Pesticide Action Levels are becoming part of this rulemaking for efficiency and clarity).

Joanna Eide, Rules and Policy Coordinator, began the briefing with materials (HANDOUTS 4A 1-6). She provided background noting these rules are the result of several areas of the lab certification, testing, and quality assurance rules that were identified as needing improvements. Also establishing pesticide action levels and proficiency testing requirements for labs.

The WSLCB convened a work group to gather information to inform staff for some of these rule adjustments

- Work group was comprised of industry members, certified labs, WSLCB's certifying and auditing vendor RJ Lee, and subject matter experts from our partner agencies – DOH, WSDA, Ecology.
- Meetings were held over a period of six months
- Very good discussions and information gathering
- Participation by our partner agencies was vital and incredibly informative

Based on the information gathered as part of this informal work group, they feel that these rule changes will increase lab consistency and accuracy due to proficiency testing requirements and incorporating elements of ISO 17025. It will help to reduce self-selection bias in sample collection for testing and provide the WSLCB the tools it needs to ensure accountability with certified labs.

What changes are being proposed?

New Section. WAC 314-55-0995, Laboratory certification and accreditation requirements.

This section pulls lab certification requirements out of WAC 314-55-102 to create a stand-alone section. Labs will more easily be able to locate these requirements. Some adjustments and clarifications were made to the certification requirements, including clarification on education requirements for laboratory personnel, and language added to clearly state that the certification requirements are continuing requirements for maintaining certification. Additional changes were made to reduce redundancy.

Amendatory Section. WAC 314-55-101, Sampling protocols.

Sample labeling requirements are adjusted to clearly mark samples with all necessary information for identification.

The changes include adjustments to how lots may be accumulated to increase flexibility, as well as the number of samples that need to be collected for each lot to try to ensure sufficient minimum sample sizes while aiming to reduce the amount of material required. Adjustments are intended to reduce self-selection bias with sample deduction. Requirements for each sample to be packaged in a separate container to increase accurate assessment of lots and batches. Labs may collect samples if they choose.

There are technical changes to accommodate other updates within the rule and to increase rule clarity and organization.

Amendatory Section. WAC 314-55-102, Quality assurance testing.

Editing for clarity, consistency, and organization. Removed lab certification requirements for placement in a new separate section to increase rule organizational logic and clarity.

Adjustments to how potency is calculated to increase accurate reporting and labeling of potency levels. Instead of a single result, potency analysis must be performed by testing 3 separate samples from the lot or batch and averaging the result. Direction on calculating potency, both THC and CBD, is included in the rule language.

Moisture analysis and microbiological testing changes. Changes include testing and reporting for water activity rate, which is a more accurate indicator of the risk of growth of microbes, mold, etc. Moisture content testing changes were made making a sample with more than 15% moisture content fail quality assurance testing. Microbiological screening was changed to test for enterobacteria. Many of these changes to when these tests are required are offset by the addition of testing for aflatoxins and ochratoxin (under mycotoxin screening).

Residual solvent screening was changed heavily and mirrored after the standards used in the United States Pharmacopea. Only the solvents that are classified as having the least risk are allowed to be used in marijuana processing. The solvent levels correlate to the level of risk they pose for consumption. Residual solvent results of more than 5,000 ppm for class three solvents, 50 ppm for class two solvents, and 2 ppm for class one solvents as defined in *United States Pharmacopea, USP 30 Chemical Tests / <467> - Residual Solvents (USP <467>)* not listed in the table in the rule fail quality assurance testing. (Similar construct as pesticide action levels). Labs must test for the residual solvents listed in the rule at a minimum. Labs and licensees may choose to test for additional solvents. The construct is aimed at identifying those solvents that have the highest risk for misuse.

Adjustments to when testing must be performed are proposed to allow for greater flexibility while still ensuring the proper tests are performed prior to products being sold at retail. There is also a requirement that concentrates be tested after production. Allowances for remediating failed lots or batches are made under certain conditions.

Technical changes to accommodate other changes within the rule and to increase rule clarity and organization.

New Section. WAC 314-55-108, Pesticide action levels.

This new section incorporates the pesticide action levels previously established by the Board through emergency rule. It adds direction for testing and retesting, conditions for remediation techniques (currently unknown, but this will be a placeholder if there are techniques developed in the future), and destruction requirements for harvest, lots, or batches that test above the pesticide action levels established in this section. The action levels in this draft mirror the action levels established by Oregon

and to provide action levels for those disallowed pesticides beyond those that appear on the list. These action levels are supported by a report issued by the Oregon Health Authority.

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

This new section incorporates the proficiency testing requirements for labs previously established by the Board through emergency rule. The rule creates requirements for proficiency testing for laboratories seeking certification, and for certified laboratories to maintain certification. 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.

This 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).

Amendatory Section. WAC 314-55-103, Good laboratory practice checklist.

Changes and enhancements to this section are made to incorporate portions of ISO 17025 5.4 instead of requiring ISO 17025 accreditation for WSLCB certified labs. WSLCB staff worked with our laboratory certifying and auditing vendor, RJ Lee, to incorporate the changes proposed. Incorporating the new requirements in this section is intended to increase lab accuracy and consistency and are proposed as a cost savings measure as ISO 17025 accreditation is costly to achieve and maintain. The WSLCB will continue to look into ISO 17025 accreditation for certified labs as a requirement for achieving and maintaining WSLCB certification and may revisit this issue at a later date. The WSLCB believes that incorporating these changes will achieve the desired outcomes of ISO accreditation, such as accuracy and consistency, without the high costs of ISO accreditation.

Additional adjustments to other rules to accommodate the changes in this rulemaking will be made in the Technical/Clarifying Changes to Chapter 314-55 WAC Rulemaking.

Ms. Eide then requested approval from the Board to file proposed rules.

Chair Rushford asked Ms. Eide to clarify other considerations in the decision for setting the action levels. Ms. Eide said there were differences of opinion on setting the threshold levels higher or lower. The decision they made was a good balance using the information available now.

MOTION: Member Garrett moved to approve the filing of proposed rules (CR 102) for Lab Testing and Quality Assurance Rules Review.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

Chair Rushford thanked Ms. Eide for the impressive work and acknowledged the contributions from others. The Board would like the contact information for all those that contributed so that they can thank them.

ACTION ITEM 4B - Board approval to refile emergency rules for proficiency testing/lab certification suspension and revocation.

Joanna Eide, Rules and Policy Coordinator, began the briefing with materials (HANDOUTS 4A 1-6). She provided background noting that this is a re-adoption of emergency rules that have been approved by the Board twice before as permanent rulemaking is underway. The re-adoption is to maintain the requirements until permanent rules, presented to the Board today, take effect. The rules were adjusted since last adopted by the Board to define what constitutes successful passage of proficiency testing. This was developed based on input from the Dept. of Ecology and through the assistance of RJ Lee.

Ms. Eide then requested approval from the Board to refile the emergency rules.

MOTION: Member Garrett moved to approve the refile emergency rules for proficiency testing/lab certification suspension and revocation.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

5. ADDITIONAL BUSINESS

Chair Rushford then invited citizens to address the Board regarding any issues related to LCB business.

Jim MacRae- Straight Line Analytics

Mr. MacRae opposes the requirement for the "Not for Kids" warning symbol on marijuana edibles. If we are going to require the symbol, he would like to have it also required for nicotine and alcohol products. He would like to caution that we not allow flexibility in the proficiency testing requirements.

ADJOURN

Chair Rushford adjourned the meeting at 10:35.

Minutes approved this 28th day of December, 2016


Jane Rushford
Board Chair


Ollie Garrett
Board Member

Minutes prepared by: Lisa Faker, Executive Assistant to the Board

LCB Mission - Promote public safety and trust through fair administration and enforcement of liquor, tobacco and marijuana laws.

Complete meeting packets are available online: http://lcb.wa.gov/boardmeetings/board_meetings
For questions about agendas or meeting materials you may email lisa.faker@lcb.wa.gov or call 360.664.1717