

Issue Paper

Curbside Service for Grocery Stores

Date: August 22, 2018

Presented by: Janette Benham, Policy and Rules Coordinator

Description of the Issue

The purpose of this Issue Paper is to request approval from the board to file revised proposed rules (CR 102) to allow grocery stores to provide curbside service when customers order alcohol as part of a grocery order placed online. The supplemental CR 102 is necessary due to changes in the originally proposed rules. The changes include the addition of public safety language, a minimum order amount of \$25 of items coded as grocery items in addition to the alcohol, and additional technical and clarifying changes.

Why is rule making necessary?

A petition for rulemaking was submitted by Deborah Herron, Walmart's Director of Public Affairs and State & Local Government. Walmart requested the Board open rulemaking to allow grocery stores to provide curbside service for customers participating in online ordering and pickup.

Background

Online programs allow customers to choose and order groceries online and pick them up curbside at the grocery store.

Permanent rules are needed to allow grocery stores to provide curbside service and ensure that guidelines are in place for this service.

What changes are being made?

Amended Section: WAC 314-11-015 What are my responsibilities as a liquor licensee? Amended language removes the prohibition on curbside service, but maintains and clarifies that liquor cannot be sold or served by drive-in, drive-through pickup, or pass-through pickup windows. Clarifying and technical changes were also made to this section.

New Section: WAC 314-03-400 Curbside Service This section outlines requirements for grocery stores that provide curbside service. Requirements include:

- A minimum of twenty-five dollars of items coded as grocery items, not including alcohol.
- Orders must be delivered by an employee of the licensee to the vehicle.
- The person who made the order online must be the same person accepting delivery.

- Public Safety language that includes requirements that the person delivering the order must be at least eighteen years of age and be trained on verifying ID, recognizing signs of intoxication, and preventing youth access. In addition, aside from a clear parent/guardian and child relationship, all occupants of the vehicle must be at least twenty-one years of age and provide proof of ID to the employee delivering the order. If ID cannot be verified, or if the driver appears intoxicated, the alcohol will not be sold and will be removed from the order.

WAC 314-11-015 What are my responsibilities as a liquor licensee? (1)(a) Liquor licensees are responsible for the operation of their licensed premises in compliance with the liquor laws and rules of the board (Title 66 RCW and Title 314 WAC). Any violations committed or permitted by employees will be treated by the board as violations committed or permitted by the licensee.

(b) The penalties for violations of liquor laws or rules are in: WAC 314-29-015 through 314-29-035, as now or hereafter amended, for licensees; and WAC 314-17-105 and 314-17-110, as now or hereafter amended, for employees who hold mandatory alcohol server training permits. These rules also outline aggravating and mitigating circumstances that may affect what penalty is applied if a licensee or employee violates a liquor law or rule.

(2) Licensees and their employees also have the responsibility to conduct the licensed premises in compliance with the following laws, as they now exist or may later be amended:

((■)) • Titles 9 and 9A RCW, the criminal code laws;

((■)) • Title 69 RCW, which outlines the laws regarding controlled substances; and

((■—Titles—)) • Chapters 70.155, 82.24 RCW, and RCW 26.28.080 which outline laws regarding tobacco.

(3) Licensees have the responsibility to control their conduct and the conduct of employees and patrons on the premises at all times. Except as otherwise provided by law, licensees or employees may not:

(a) Be disorderly or apparently intoxicated on the licensed premises;

(b) ((Permit)) Allow any disorderly person to remain on the licensed premises;

(c) Engage in or allow behavior that provokes conduct which presents a threat to public safety;

(d) Consume liquor of any kind while working on the licensed premises; except that:

(i) Entertainers per WAC 314-02-010 may drink while performing under the following conditions:

(A) Alcohol service must be monitored by MAST servers;

(B) Drinks must be served in unlabeled containers;

(C) Entertainers may not advertise any alcohol brands or products;

(D) Entertainers may not promote drink specials; and

(E) If any member of the entertainment group is under twenty-one years of age, alcohol may not be consumed by any member of the group while performing.

(ii) Licensed beer manufacturers and their employees may sample beer of their own manufacture for manufacturing, evaluating or pricing product in areas where the public is not served, so long as the licensee or employee does not become apparently intoxicated;

(iii) Licensed wine manufacturers and their employees may:

(A) Sample wine for manufacturing, evaluating, or pricing product, so long as the licensee or employee does not become apparently intoxicated; and the licensee or employee who is sampling for these purposes is not also engaged in serving alcohol to the public; and

(B) Sample wine of their own manufacture for quality control or consumer education purposes, so long as the licensee or employee does not become apparently intoxicated.

(e) Engage in, or ~~((permit any employee or))~~ allow others ~~((person))~~ to engage in, conduct on the licensed premises which is prohibited by any portion of Titles 9, 9A, or 69 RCW;

(f) Engage in ~~((or permit any employee or other person to engage in))~~ the consumption of any type of marijuana, usable marijuana, or marijuana-infused products in a liquor licensed business, including outdoor service areas or any part of the property owned or controlled by the licensee;

(g) ~~((Permit))~~ Allow any person to consume any type of marijuana, usable marijuana, or marijuana-infused products in a liquor licensed business, including outdoor service areas or any part of the property owned or controlled by the licensee;

(h) Allow any person consuming, or who has consumed ~~((within))~~ on any part of the licensed premises, any type of marijuana, usable marijuana, or marijuana-infused products to remain on any part of the licensed premises; or

~~((h))~~ (i) Sell or serve liquor by means of ~~(("drive-in" or by "curb service."))~~ drive-in, drive-through pickup, or pass-through pickup window.

(4) Licensees have the responsibility to control the interaction between the licensee or employee and their patrons. At a minimum, licensees or employees may not:

(a) Solicit any patron to purchase any beverage for the licensee or employee, or allow a person to remain on the premises for such purpose;

(b) Spend time or dance with, or permit any person to spend time or dance with, any patron for direct or indirect compensation by a patron.

~~((e))~~ See WAC 314-11-050 for further guidelines on prohibited conduct.

NEW SECTION

WAC 314-03-400 Curbside service. (1) Grocery stores that have the appropriate liquor licenses may provide curbside service to customers who order groceries online and pick them up in designated pickup areas outside of the grocery store. Curbside service in a designated pickup area must be administered pursuant to all applicable RCW and WAC provisions. Drive-through service from pickup or pass-through windows is prohibited.

(2) Curbside pickup of groceries that include spirits, beer, and wine are allowed under the following conditions:

(a) Orders must include at least twenty-five dollars of items coded as grocery items.

(b) Orders must be delivered by an employee of the licensee to a vehicle parked in a designated pickup area owned or controlled by the licensee as part of the licensed premises.

(c) Orders may only be delivered and the sale completed if the name of the purchaser registered on the online account matches the name on the driver's license or ID of the individual accepting delivery.

(d) Employees delivering orders to the customer's vehicle and completing the sale must be at least eighteen years of age and be trained on verifying ID, recognizing signs of intoxication, and preventing youth access.

(e) Aside from a clear parent/guardian and child relationship, all occupants of the vehicle must be at least twenty-one years of age and provide proof of ID to the employee delivering the order.

(f) If ID cannot be verified, or if the driver appears intoxicated, all alcohol will be removed from the order and the customer will not be charged for any removed products.

Issue Paper

2018 Liquor Legislation – House Bill 2517

Date: August 8, 2018

Presented by: Janette Benham, Policy and Rules Coordinator

Description of the Issue

The purpose of this Issue Paper is to request approval from the board to file proposed rules (CR 102) to implement HB 2517 which passed during the 2018 legislative session. The rules revisions also provide clarifying and technical updates. The rules provide direction regarding schedules of penalties for licensees who have manufacturing licenses and participate in ancillary activities. Ancillary activities are defined as activities involving the public, and could include other retail licenses, permits, privileges, endorsements, and serving samples. The schedules of penalties for ancillary violations must ensure that licensees will not have their manufacturing license suspended for ancillary activity violations.

Why is rule making necessary?

Implementation of HB 2517 needs to be done through rulemaking. Additional changes were made to the rules to correct references to the WSLCB and provide clarification.

What changes are being made?

WAC 314-29-003, WAC 314-29-010, WAC 314-29-020, and WAC 314-29-040: These sections were amended to correct references to the WSLCB and make technical changes to update and clarify rules language.

WAC 314-29-015 What are the penalties if a liquor license holder violates a liquor law or rule? This section was amended to add the definition of ancillary activities and correct references to the WSLCB. The amendment clarifies that the schedules of penalties already established in rule for ancillary activity violations will apply, but will not affect a licensee's underlying manufacturing license. The amendment also clarifies that if violations are not part of ancillary activities, the schedules of penalties already established in rule will apply to the manufacturing license violations and will extend to all retail activities, associated facilities, privileges, endorsements, and permits.

AMENDATORY SECTION (Amending WSR 08-17-056, filed 8/15/08, effective 9/15/08)

WAC 314-29-003 Purpose. The purpose of chapter 314-29 WAC is to outline what a liquor licensee or a mandatory alcohol server training permit holder can expect if a licensee or permit holder receives an administrative violation notice alleging a violation of a liquor ~~((control))~~ and cannabis board statute or regulation.

AMENDATORY SECTION (Amending WSR 16-19-106, filed 9/21/16, effective 10/22/16)

WAC 314-29-010 What options does a licensee or permit holder have once he/she receives a notice of an administrative violation?

(1) A licensee or a mandatory alcohol server training permit holder has twenty days from receipt of the notice to:

- (a) Accept the recommended penalty; or
- (b) Request a settlement conference in writing; or
- (c) Request an administrative hearing in writing.

A response must be submitted on a form provided by the agency.

(2) What happens if a licensee or mandatory alcohol server training permit holder does not respond to the administrative violation notice within twenty days?

(a) If a licensee or permit holder does not respond to the administrative violation notice within twenty days, the recommended suspension penalty will go into effect. After twenty days and up to thirty days from the date of the administrative violation notice, and if the violation includes a monetary penalty, the licensee may pay a twenty-five percent fee in addition to the recommended penalty in lieu of suspension.

(b) If the penalty does not include a suspension, the licensee must pay a twenty-five percent late fee in addition to the recommended penalty. The recommended penalty plus the late fee must be received within thirty days of the violation notice issue date.

(c) When a licensee fails to submit payment of monetary fine proceedings, provisions to collect shall take effect immediately or other actions such as revocation, will be instituted as deemed appropriate by the WSLCB.

(d) An attempt to advise the debtor of the existence of the debt, and twenty-five percent late fee per (b) of this subsection, will be made notifying that the debt may be assigned to a collection agency for collection if the debt is not paid, and at least thirty days have elapsed from the time notice was attempted.

(e) Licensees failing to respond to an administrative violation notice or having outstanding fines shall not be eligible to renew their liquor license.

(f) Failure to address monetary penalties for two or more administrative violations notices in a two-year period will result in license cancellation.

(3) What are the procedures when a licensee or mandatory alcohol server training permit holder requests a settlement conference?

(a) If the licensee or permit holder requests a settlement conference, the hearing examiner or captain will contact the licensee or permit holder to discuss the violation.

(b) Both the licensee or permit holder and the hearing examiner or captain will discuss the circumstances surrounding the charge, the recommended penalty, and any aggravating or mitigating factors.

(c) If a compromise is reached, the hearing examiner or captain will prepare a compromise settlement agreement. The hearing examiner or captain will forward the compromise settlement agreement, authorized by both parties, to the board for approval.

(i) If the board approves the compromise, a copy of the signed settlement agreement will be sent to the licensee or permit holder, and will become part of the licensing history.

(ii) If the board does not approve the compromise, the licensee or permit holder will be notified of the decision. The licensee or permit holder will be given the option to renegotiate with the hearing examiner or captain, of accepting the originally recommended penalty, or of requesting an administrative hearing on the charges.

(d) If the licensee or permit holder and the hearing examiner or captain cannot reach agreement on a settlement proposal, the licensee may accept the originally recommended penalty, or the hearing examiner or captain will forward a request for an administrative hearing to the board's hearings coordinator.

AMENDATORY SECTION (Amending WSR 09-21-050, filed 10/14/09, effective 11/14/09)

WAC 314-29-015 What are the penalties if a liquor license holder violates a liquor law or rule? (1) The purpose of WAC 314-29-015 through 314-29-040 is to outline what penalty a liquor licensee can expect if a licensee or employee violates a liquor ~~((control))~~ and cannabis board law or rule (the penalty guidelines for mandatory alcohol server training permit holders are in WAC 314-17-100 through 314-17-110). WAC rules listed in the categories provide reference areas, and may not be all inclusive. For purposes of this section, ancillary activities are defined as activities an alcohol manufacturer participates in and include all activities, licenses, and privileges involving the public, such as serving samples, operating a tasting room, conducting retail sales, serving alcohol under a restaurant license, or serving alcohol with a special occasion license.

(2) Penalties for violations by liquor licensees or employees are broken down into ~~((four))~~ five categories:

(a) Group One—Public safety violations, WAC 314-29-020.

(b) Group Two—Regulatory violations, WAC 314-29-025.

(c) Group Three—License violations, WAC 314-29-030.

(d) Group Four—Nonretail violations involving the manufacture, supply, and/or distribution of liquor by nonretail licensees and prohibited practices between nonretail licensees and retail licensees, WAC 314-29-035.

(e) Group Five—Public safety violations for sports entertainment facility licenses, WAC 314-29-038.

(3) For the purposes of chapter 314-29 WAC, a two year window for violations is measured from the date one violation occurred to the date a subsequent violation occurred.

(4) The following schedules are meant to serve as guidelines. Based on mitigating or aggravating circumstances, the liquor (~~control~~) and cannabis board may impose a different penalty than the standard penalties outlined in these schedules. Based on mitigating circumstances, the board may offer a monetary option in lieu of suspension during a settlement conference as outlined in WAC 314-29-010(3).

(a) Mitigating circumstances	(b) Aggravating circumstances
Mitigating circumstances that may result in fewer days of suspension and/or a lower monetary option may include demonstrated business policies and/or practices that reduce the risk of future violations. Examples include: <ul style="list-style-type: none">• Having a signed acknowledgment of the business' alcohol policy on file for each employee;• Having an employee training plan that includes annual training on liquor laws.	Aggravating circumstances that may result in increased days of suspension, and/or increased monetary option, and/or cancellation of a liquor license may include business operations or behaviors that create an increased risk for a violation and/or intentional commission of a violation. Examples include: <ul style="list-style-type: none">• Failing to call 911 for local law enforcement or medical assistance when requested by a customer, a liquor (control) and cannabis board officer, or when people have sustained injuries;• Not checking to ensure employees are of legal age or have appropriate work permits.
(c) In addition to the examples in (a) and (b) of this subsection, the liquor (control) and cannabis board will provide and maintain a list of business practices for reference as examples where business policies and/or practices may influence mitigating and/or aggravating circumstances. The established list will not be all inclusive for determining mitigating and/or aggravating circumstances, and may be modified by the liquor (control) and cannabis board. The list shall be accessible to all stakeholders and the general public via the internet.	

(5) Ancillary activity violations:

(a) When a violation or violations are part of ancillary activities, all ancillary activities including those at the manufacturing facility or associated locations involving the public will be subject to the schedules of penalties outlined in WAC 314-29-020 through 314-29-038. When violations are part of ancillary activities, the manufacturing license will not be suspended, revoked, or canceled.

(b) When a violation or violations are not part of ancillary activities, the manufacturing license is subject to the schedules of penalties outlined in WAC 314-29-020 through 314-29-038 and will extend to all retail activities, associated facilities, privileges, endorsements, and permits.

AMENDATORY SECTION (Amending WSR 16-19-106, filed 9/21/16, effective 10/22/16)

WAC 314-29-020 Group 1 violations against public safety. (1) Group 1 violations are considered the most serious because they present a direct threat to public safety. Violations beyond the first violation do not have a monetary option upon issuance of a violation notice. The liquor (~~control~~) and cannabis board may offer a monetary option in lieu of suspension days based on mitigating circumstances as outlined in WAC 314-29-015(4).

(2) Group 1 violations will be counted sequentially rather than independently by group. For example, if a licensee received a violation for over service on one day and a violation for sale to a minor a

week later, the sale to a minor would be treated as a second offense since both violations are in the same violation group.

Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
Violations involving minors: Sale or service to minor: Sale or service of alcohol to a person under 21 years of age. Minor frequenting a tavern, lounge, or other restricted area. RCW 66.44.270 RCW 66.44.310 WAC 314-11-020 WAC 314-16-150	5 day suspension or \$500 monetary option	7 day suspension	30 day suspension	Cancellation of license
Sale or service to apparently intoxicated person: Sale or service of alcohol to, or permitting consumption or possession by, an apparently intoxicated person. RCW 66.44.200 WAC 314-16-150	5 day suspension or \$500 monetary option	7 day suspension	30 day suspension	Cancellation of license
Conduct violations: Disorderly conduct by licensee or employee, or permitting on premises. Licensee and/or employee intoxicated on the licensed premises and/or drinking on duty. Criminal conduct: Permitting or engaging in criminal conduct. WAC 314-11-015	5 day suspension or \$500 monetary option	7 day suspension	30 day suspension	Cancellation of license
Lewd conduct: Engaging in or permitting conduct in violation of WAC 314-11-050.	5 day suspension or \$500 monetary option	7 day suspension	30 day suspension	Cancellation of license
Refusal to allow an inspection and/or obstructing a law enforcement officer from performing their official duties. RCW 66.28.090 RCW 66.44.370 WAC 314-11-090	5 day suspension or \$500 monetary option	7 day suspension	30 day suspension	Cancellation of license
Condition of suspension violation: Failure to follow any suspension restriction while liquor license is suspended. WAC 314-29-040	Original penalty plus 10 day suspension with no monetary option	Cancellation of license		

AMENDATORY SECTION (Amending WSR 03-09-015, filed 4/4/03, effective 5/5/03)

WAC 314-29-040 Information about liquor license suspensions.
 (1) On the date a liquor license suspension goes into effect, a liquor (~~control agent~~) and cannabis board enforcement officer will post a suspension notice in a conspicuous place on or about the licensed

premises. This notice will state that the license has been suspended by order of the liquor (~~control~~) and cannabis board due to a violation of a board law or rule.

(2) During the period of liquor license suspension, the licensee and employees:

(a) Are required to maintain compliance with all applicable liquor laws and rules;

(b) May not remove, alter, or cover the posted suspension notice, and may not permit another person to do so;

(c) May not place or permit the placement of any statement on the licensed premises indicating that the premises have been closed for any reason other than as stated in the suspension notice (see WAC 314-01-005 for the definition of "licensed premises").

(d) May not advertise by any means that the licensed premises is closed for any reason other than as stated in the liquor (~~control~~) and cannabis board's suspension notice.

(3) During the period of liquor license suspension:

(a) A retail liquor licensee may operate his/her business provided there is no sale, delivery, service, consumption, removal, or receipt of liquor. No banquet permit or special occasion function may be held on the premises during a period of liquor license suspension.

(b) A nonretail licensee may operate his/her business provided there is no sale, delivery, service, consumption, removal, or receipt of liquor.

(c) A manufacturer of alcohol may do whatever is necessary as a part of the manufacturing process to keep current stock that is on hand at the time of the suspension from spoiling or becoming unsaleable during a suspension, provided it does not include bottling the product. The manufacturer may not receive any agricultural products used in the production of alcohol, crush fruit, or bottle alcohol during the period of suspension.

Issue Paper

2017 Cannabis Legislation Rules

Date: August 22, 2018

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 proposed rules (CR 102) for changes to cannabis rules in Chapter 314-55 WAC as a result of legislation passed during the 2017 legislative session, as well as a number of clarifying and other needed changes identified by stakeholders and WSLCB staff.

Why is rule making necessary?

Rulemaking is necessary to ensure that rules are consistent with changes to laws made by the Legislature during the 2017 Legislative Session in ESSB 5131, SB 5130, and HB 1250. Other technical, clarifying, and needed changes to rules identified by staff and stakeholders will be addressed, incorporating the CR-101 filed as WSR 16-15-035 into this rulemaking. This supplemental CR-102 includes changes to rules made from the original CR-102 filed as WSR 18-09-118 as a result of comments received and additional changes identified. Items that were changed from the initial rules proposal (CR-102) are identified by underlined text in the description of the changes below.

What changes are being proposed?

Amendatory section. WAC 314-55-010 Definitions.

- Technical changes to definitions of “elementary school” and “secondary school”
- Clarifying changes to definition of “financier” to make clearer and consistent with clarifying edits to the term in WAC 314-55-035
- Definitions added for the following terms:
 - o End product
 - o Harvest – new definition consistent with DOH rules for compliant products in chapter 246-70 WAC
 - o Immature plant or clone
 - o Intermediate product
 - o Lozenge
 - o Marijuana mix
 - o Marijuana mix packaged / mix packaged
 - o Marijuana mix infused / mix infused

- Product(s) otherwise taken into the body – clarify other products not ingested orally but taken into the body through absorption, etc., fall within the definition of marijuana-infused products
- Various other technical changes throughout to ensure consistency and clarity in use of terms, including adding metropolitan park districts as “owners” of playgrounds and recreation centers/facilities, correcting “usable marijuana” to “useable marijuana” to make consistent with statutory definitions in chapter 69.50 RCW, etc.

Amendatory section. WAC 314-55-015 General information about marijuana licenses.

- Added language stating that the WSLCB will not issue a marijuana license within the exterior boundaries of a reservation of a federally recognized Indian tribe without express consent of the tribe, as required by changes to RCW 69.50.331.
- Technical changes regarding the co-location of licenses to reflect actual practices and allowances in co-location of licenses for research licenses and producers who also hold a processor license.
- Removed language regarding requirements that processors must construct and keep facilities for marijuana-infused edibles in a clean and sanitary condition as those requirements are being covered in WAC 314-55-077.
- “Licensees” added to list of people that must be 21+ to work in a licensed establishment.
- Subsection (3), “Minors restricted” signage language added “consistent with requirements in 314-55-086”

Amendatory section. WAC 314-55-018 Prohibited practices—Money advances—Contracts—Gifts—Rebates, discounts, and exceptions, etc.

- Technical changes to add exceptions for “free products” or “treats or services” as allowed under WAC 314-55-096 (samples) and RCW 69.50.585 (Branded promotional items—Nominal value—Personal services).
- Added marijuana transportation licenses and marijuana research licenses to the definition of “industry member” to ensure all license types are captured.
- Added language reiterating prohibition of contingency sales consistent with WAC 314-55-017.
- Volume discount proposed language was removed based on comments received.

Amendatory section. WAC 314-55-020 Marijuana license qualifications and application process.

- Technical changes to rule language relating to notices of local jurisdictions, port authorities, and tribal governments consistent with changes made by the Legislature in RCW 69.50.331.
- Addition of language relating to the statutory change to prohibit the WSLCB from issuing a marijuana license within the exterior boundaries of a reservation of a federally recognized Indian tribe without express consent of the tribe, as required by changes to RCW 69.50.331. Additional language included outlining the process for an applicant to find another location if the tribe does not consent to the licensee being located within the boundaries of the reservation.
- Technical changes to add all existing marijuana license types.
- Removal of language relating to prioritization of marijuana retail licenses due to the removal of prioritization requirements in statute by the 2017 Legislature.
- Clarifying and technical adjustments to language for inspections of locations and ensuring rule language more clearly reflects WSLCB practice for residency requirements for individuals and entities that must be qualified/listed on a marijuana license.
- Changes to operating plan requirements to move the requirements to a more flexible operating plan form that can be tailored to the needs for each unique license type. This is partially necessary due to the addition of transportation and research licenses.
- "Licensing change requests" was added to title of section.
- Subsection (12) was added, expressing LCB authority to place licensing change applications on hold, withdraw licensing change applications, and examples of licensing change applications that may be affected. This change is made to provide notice to licensees of current practices and to promote transparency.

Amendatory section. WAC 314-55-035 Persons or entities that must qualify for a marijuana license.

- Clarifying changes to the definitions for "true party(ies) of interest" and "financiers" to clearly differentiate the two.
- New language detailing that employees of producers or processors that receive commission-based compensation are not considered true parties of interest so long as the following conditions are met:
 - The commission-based compensation arrangement does not create a default true party of interest relationship.
 - The commission-based compensation arrangement between a licensee and employee is in writing, no more than 5% of the gross profits may be given to any one employee under such an arrangement, and an employee receiving commission-based compensation is listed as an employee of the licensee with the Washington State Employment Security Department.

- Commission-based compensation arrangements are not permissible for employees of retailers due to concerns about sales-incentive based compensation and promoting over consumption, etc.
- New language clarifying that a consultant that receives a flat or hourly rate compensation under a written contractual agreement is not a true party of interest so long as the consultant does not receive any percentage of profits or interest in the licensed business or management or control of the licensed business such that would indicate or create a true party of interest relationship.
- Clarification that all funds must be approved by the WSLCB prior to their transfer, consistent with WSLCB rules and current practice. This addition is to reinforce this requirement since some licensees have not done so and have run into issues.
- Added references to changes in ownership requirements in WAC 314-55-120 to ensure clarity of requirements and avoid confusion.
- Title of section changed to read: "True parties of interest, financiers, consultants, and contractual agreements."
- Small technical changes to subsection (1), as well as addition inside TPI chart that states: "Any entity or person who exercises control over the licensed business in exchange for money or expertise."
- Section (3)(a) for Financiers added language "... unless the financier is a true party of interest with prior WSLCB approval and is qualified on the license as such."
- Addition of (b): Management of daily business operations will not generally be considered as constituting a true party of interest unless the surrounding circumstances or cumulative duties or powers indicate that the person is exercising management or control of the business to such an extent so as to constitute a true party of interest role. Examples of management of control of a licensed business that would constitute a true party of interest include, but are not limited to, the following: (i) Any person or legal entity, other than an employee acting under the direction of the owner, that exercises control over, or is entitled to exercise control over, the business; (ii) Any person or legal entity, other than an employee acting under the direction of the owner, that incurs, or is entitled to incur, debt or similar obligations on behalf of the business; or (iii) Any person or legal entity, other than the employee acting under the direction of the owner, then enters into, or is entitled to enter into, a contract or similar obligations on behalf of the business.
- Addition of "Failure to follow requirements is a violation of this section"
- Addition of examples of a person/entity who is entitled to receive a percentage of profits, exercises control, and who may qualify as a TPI.
- Addition of (7) detailing the process for disclosing and requirements for licensing agreements and consulting contracts to the WSLCB. Agreements or contracts under this subsection cannot create an expectation of

exclusivity or dictate the circumstances under which the marijuana business should be operated.

Amendatory section. WAC 314-55-050 Reasons the WSLCB may seek denial, suspension, or cancellation of a marijuana license application or license.

- Technical changes to ensure all marijuana license types correctly fall under rule requirements.
- Technical changes to ensure exceptions to buffer zone requirements function correctly if a local jurisdiction reduces the 1,000 foot distance requirement for restricted entities by local ordinance.

Amendatory section. WAC 314-55-073 Marijuana research license.

- Increases to project plan page length from 4 to 8 pages, not including references or citations, to allow for greater explanation of project plans and supportive documentation of evidence and data.
- Additional provisions allowing the scientific reviewer to inquire into the cost of the proposed project as well as financial support and viability of an applicant for a research license.
- New language allowing for the scientific reviewer to request additional information if necessary to complete the review of the research license application.
- New language allowing the scientific reviewer to conduct a site visit if needed to assess location, facilities, or equipment for the proposed project.

Amendatory section. WAC 314-55-075 Marijuana producer license — Privileges, requirements, and fees.

- Adjustments to reflect statutory changes allowing licensed producers to sell immature plants or clones and seeds members of a registered cooperative, qualifying patients, or designated providers. Detailed requirements for these sales appear in a new section later in chapter 314-55 WAC, also part of this rulemaking.
- Adjustments to reflect statutory changes to allow licensed producers to sell immature plants or clones and seeds to licensed marijuana researchers.
- Changes to the fees for a producer license to reflect changes to state law increasing license fees to \$1300 effective July 1, 2018.
- Technical changes detailing that the window to apply for a producer license is closed. The WSLCB may reopen the producer license application window at subsequent times when deemed necessary.
- Technical changes to language to reflect that overall canopy cannot exceed the amount licensed by the WSLCB.

- Addition of language being moved from other sections regarding treating or adulterating useable marijuana and the requirement that QA test results must be made available to any processor purchasing product, as well as lot labeling requirements. These provisions appeared elsewhere in the chapter but made more sense to be included in this rule.
- Addition of \$81 to producer license fee consistent with legislative changes to law.

Amendatory section. WAC 314-55-077 Marijuana processor license – Privileges, requirements, and fees.

- Technical changes to rework the organization of the overall rule.
- Changes to the fees for a processor license to reflect changes to state law increasing license fees to \$1300 effective July 1, 2018.
- Technical changes detailing that the window to apply for a processor license is closed. The WSLCB may reopen the producer license application window at subsequent times when deemed necessary.
- Adjustments to phase out the addition of a processor license for an existing producer license that has not also been issued a processor license. These provisions have served their purpose and are no longer needed.
- Adjustments to rule language to reflect the new requirements for processors that make marijuana-infused edible products to obtain a marijuana edible endorsement from the WSDA effective April 1, 2018.
- Moved language from WAC 314-55-015 regarding requirements that processors must construct and keep facilities for marijuana-infused edibles in a clean and sanitary condition as it is more appropriate in this rule.
- Addition of language being moved from WAC 314-55-105 regarding treating or adulterating useable marijuana as it is more appropriate to appear in this rule and WAC 314-55-075.
- Removal of language regarding the requirement that servings of marijuana-infused edibles must be individually wrapped and other packaging and labeling provisions as they are covered in packaging and labeling rules (WAC 314-55-105).
- Language allowing the removal of the statement “this product contains marijuana” only if a universal symbol is adopted by the Board and upon the effective date of that change.
- Language allowing processing service arrangements between licensed processors to process intermediate products for a fee rather than purchasing the marijuana and selling it back plus the costs of extraction services. Additional provisions are included providing parameters on how such arrangements may operate.
- Additional provisions relating to returns of product, including recordkeeping requirements.
- Clarifying technical and organizational changes throughout.

- Addition of \$81 to processor license fee consistent with legislative changes to law.
- Adjusted language to read "Until January 1, 2019, prominently display on the label 'This product contains marijuana.'" Due to packaging and labeling rule adjustments that were adopted by the Board.
- Removal of (7). Since the Board has adopted the effective date of the universal symbol, this subsection was no longer needed.
- Additions made to (11)(b) regarding payment for processing service arrangements and failure to return product within 30 days will result in a violation.
- Addition of "Payment with any marijuana products, barter, trade, or compensation in any form other than cash for processing service arrangements is prohibited under processing service arrangements."
- Removal of (11)(c) Processing service arrangements can't exceed fifty percent of a processor's business.
- Addition of WAC 314-55-115 reference in section (12) (b) and (c).

Amendatory section. WAC 314-55-079 Marijuana retailer license – Privileges, requirements, and fees.

- Changes to incorporate the allowance for sale or donation of lockable drug boxes due to changes to law. A marijuana retailer may not sell lockable boxes for less than the cost of acquisition or sell boxes received as a donation. The donation of lockable boxes must come from a person or entity that is not a licensed marijuana producer, processor, or retailer.
- Increase of maximum retail license interests from 3 to 5 total due to changes in law.
- Clarifying technical and organizational changes throughout.
- Changes to the fees for a retailer license to reflect changes to state law increasing license fees to \$1300 effective July 1, 2018.
- Language regarding requirements that products be stored behind a counter or other barrier moved from WAC 314-55-105 to this rule as the provisions are more appropriate in the retailer rule rather than packaging and labeling rules.
- Removal of 72-hour notification requirement prior to disposal of marijuana products consistent with removal for waste requirements proposed in this rulemaking.
- Addition of \$81 to retailer license fee consistent with legislative changes to law.

Amendatory section. WAC 314-55-080 Medical marijuana endorsement.

- Clarifying changes to incorporate provisions in law allowing qualifying patients between 18 and 21 years old with a recognition card to enter and remain on the premises of a retail store with a medical marijuana

endorsement. Additional provisions for qualifying patients with recognition cards under the age of 18 are also included. Changes are consistent with allowances in statute and will ensure licensees have proper information regarding the privileges of qualifying patients under age 21.

- Adjustments to require records be kept for 5 years, consistent with Dept. of Revenue recordkeeping requirements.
- Addition of "Only a designated provider may purchase products for a qualifying patient under the age of eighteen who holds a valid recognition card." This language is added to ensure requirements are clear.

Amendatory section. WAC 314-55-082 Insurance requirements.

- Clarifying edits to ensure better understanding of rule requirements.

Amendatory section. WAC 314-55-083 Security and traceability requirements for marijuana licensees.

- Adjustment to rule title to ensure understanding that traceability system requirements are included in the rule.
- Proposed removal of 24-hour quarantine requirement prior to transfers of product.
- Proposed removal of 72-hour notification and waiting period prior to destroying waste.
- Change from the 16-digit identification number to the "unique identifier generated by the state traceability system" due to the transition to a new traceability system.
- Removal of the 15-day window for start-up inventory for producers. Since the industry has been up and running for years now, this allowance has served its purpose. Producers may purchase plants/clones/seeds, etc., from other licenses producers.

Amendatory section. WAC 314-55-084 Marijuana plant production.

- Minor changes to ensure the rule functions properly, including technical changes due to WAC 314-55-108, Pesticide action levels, becoming effective in August 2017.

Amendatory section. WAC 314-55-087 What are the recordkeeping requirements for marijuana licensees?

- Adjustment to require records be kept for 5 years, consistent with Dept. of Revenue recordkeeping requirements.
- Technical change made to title of WAC section.

Amendatory section. WAC 314-55-089 Tax and reporting requirements for marijuana licensees.

- Change to provide that monthly reporting requirements for purchases and sales by producers and processors is accomplished by keeping data completely up to date in the state traceability system.
- Edits to clarify that inventory reductions that are not adequately documented will be deemed to be sales and will be assessed the excise tax.
- Additional language to clarify that excise tax collected in error must either be returned to the customer(s) or remitted to the WSLCB if returning to the customer(s) is not possible.
- If a licensee uses a money transmitter service, the licensee must remit payments in US dollars.

Amendatory section. WAC 314-55-092 Failure to pay excise taxes and late payment of excise taxes.

- Clarifying adjustment that the 2% penalty per month applies to outstanding balance for late excise tax payments.

Amendatory section. WAC 314-55-095 Marijuana servings and transaction limitations.

- Changes to clarify the servings and transaction limits for products, including marijuana-infused products otherwise taken into the body and topicals. These changes were a direct result of many questions received on servings and transactions requirements from the industry.
- Limits were needed for products that are otherwise taken into the body to ensure uniformity in servings and transaction requirements for all marijuana-infused products that are eaten or absorbed into the body through a method other than oral ingestion. These proposed changes will serve to avoid similar concerns for overconsumption and THC limits for these products as exist with marijuana edible products.
- Added language that states a licensee or employee of a licensee is prohibited from conducting a sale that facilitates an individual in obtaining more than the personal possession amount.
- Addition of "Personal possession limits and transaction limits are detailed in RCW 69.50.360 and 69.50.4013."
- Change of "sale" to read as "transaction."

Amendatory section. WAC 314-55-096 Vendor, educational, and internal quality control samples.

- Clarifying changes to ensure sampling rules are clear and understandable due to licensees expressing confusion with requirements.
- Clarification that vendor samples may only be given to and used by licensees or employees of licensees who have product ordering authority. This change is proposed to avoid potential compensation through marijuana products and to ensure that vendor samples function as they

should in only being used to negotiate a sale for a product that the licensee does not already carry.

- Added allowances specifically for products that are otherwise taken into the body consistent with definitions and servings and transaction limitations, as well as treating such products similar to marijuana edible products.
- Added language regarding the amounts of topical products that may be sampled under vendor and education sampling rules as the rules were silent. This is in response to industry questions on the subject.
- Change from the 16-digit identification number to the "unique identifier generated by the state traceability system" in labeling requirements for samples due to the transition to a new traceability system.
- Change in language of Vendor samples to read "...May provide free samples to negotiate a sale on product the retail licensee does not currently carry".
- Addition of (1)(a) Vendor samples may only be given to and used by licensees or employees of licensees who have product ordering authority or employees who provide input on product to licensees or employees of licensees who have purchasing authority to inform purchasing decisions as detailed in a written business policy."
- Changes made in (2)(a) Educational Sampling. "Retailers are restricted to receiving a maximum of one hundred sample units per calendar month. No more than ten sample units may be provided to any one employee per calendar month." This change is to reduce confusion in requirements and ensure rule intent is clearly expressed in language.
- Changes made throughout to change "budtender" to "employee"
- Addition explaining processors may not exceed 16 ounce samples of MJ topicals and may sample one unit per batch.

Amendatory section. WAC 314-55-097 Marijuana waste disposal— Liquids and solids.

- Changes to remove the 72-hour notification requirement prior to disposal of waste. Traceability requirements must still be maintained by licensees for waste disposal, but the 72-hour waiting period is proposed to be removed.
- Additional changes to waste requirements are expected later this year. The WSLCB is currently discussing potential changes with the Dept. of Ecology, waste management companies, and local jurisdictions.

Amendatory section. WAC 314-55-102 Quality assurance testing.

- This section was removed as this rule will be involved in a separate rulemaking recently initiated for QA testing and products.

Amendatory section. WAC 314-55-104 Marijuana processor license extraction requirements.

- Various changes to make clarifying edits due to other rule changes to Lab QA rules during 2017.
- Restored requirement to send certificates for extractors to the WSLCB. Licensees must still meet with requirements of the State Building Code Council in WAC 51-54A-3800, as well as other legal and regulatory requirements to ensure the safe construction and operation of extractor machines.

New section. WAC 314-55-117 Use of payment services by retailers.

- Proposed new section to provide guidance to retail licensees that use money transmitter services.
- Changes were developed in partnership with the Dept. of Financial Institutions.

Amendatory section. WAC 314-55-120 Ownership changes.

- Added language (consistent with WAC 314-55-035) that licensees must notify the WSLCB if there are any changes to marital status of any true party of interest in the license. This is due to the fact that such changes have ownership change impacts.
- "Qualifying persons" was changed to "true parties of interest or owners" throughout chart.

Amendatory section. WAC 314-55-125 Change of location.

- Clarifying edits to ensure licensees understand that any change of location requires an application and approval by the WSLCB prior to any change of location of the licensed business.

New Section. WAC 314-55-137, Receiverships.

- New section proposed to detail requirements for receiverships involving marijuana licenses. This section defines notice requirements for receiverships, the requirements to be eligible to be a receiver, the role and responsibility of receivers, and qualifications to be placed on the WSLCB's pre-approved receiver list.
- This new section is needed due to a rise of licenses going into receivership and to address issues and potential concerns with receivership scenarios.
- Change to read "WSLCB treat the licensee as compliant with this section, instead of "all applicable WSLCB rules".
- Addition of: "Failure to abide by the requirements set forth in chapter 69.50 RCW and this chapter as specified in this subsection may result in enforcement action against the license under chapter 69.50 RCW and rules under this chapter and may result in the receiver being disqualified to act as a receiver by the WSLCB."

- Technical changes made in sections (3) and (4).
- Addition of "and maintain residency throughout the term of the receivership" to (4)(a)(ii).
- Removal of (d), requiring that all other qualifications must be met under RCW chapter 69.50 and this chapter.
- Removal of (iii), (iv), and (c) "Meeting any and all other requirements established for tpi's in marijuana licensees under this chapter and file a yearly update of all information required by WSLCB. For business entities that will serve as receivers for licenses, all members of the business entity will be subject to review and qualification requirements for true parties of interest, as defined in WAC 314-55-035.
- Addition of: "Review and qualification requirements in this subsection only apply to persons or entities actively participating in the management of the receivership and do not apply to spouses of those person or persons involved in a business entity or fellow members of a business entity that re not actively involved in the management of the receivership." "A receiver placed on the preapproval receiver list maintained by the WSLCB must annually update all information and disclosures required under this subsection to remain eligible to act as a receiver and on the preapproved receiver list. Annual updates must be made one calendar year after the date the receiver is approved."
- Small technical changes in (5)
- Addition of (5)(ii) that you must be a WA resident for six months prior to becoming a receiver and maintain residency.
- Addition of (5)(iii) to submit and pass a background check.
- Addition of (5)(iv) detailing any financial disclosures requested by WSLCB must be provided.
- Removal of previous language in (5)(c) and addition of new language: "Review and qualification requirements in this subsection only apply to persons or entities actively participating in the management of the receivership and do not apply to spouses of those persons or persons involved in a business entity or fellow members of a business entity that are not actively involved in the management of the receivership."
- Addition of (6)(b): If the WSLCB determines that a receiver is violating or has violated the restrictions in this subsection, the receiver may be disqualified to act as a receiver.

Amendatory section. WAC 314-55-140 Death or incapacity of a marijuana licensee.

- Removal of receivership references due to the proposed new section regarding receiverships, WAC 314-55-137.

Amendatory section. WAC 314-55-185 WSLCB right to inspect premises or vehicles associated with a license to produce, process, sell, research, or transport marijuana.

- Technical changes to ensure proper reference to all marijuana license types.

Amendatory section. WAC 314-55-310 Transportation license.

- Added section and adjusted license fees to reflect changes made to law by the Legislature.

Amendatory section. WAC 314-55-410 Cooperatives.

- Changes proposed to address cooperative renewals. The WSLCB will contact the primary contact listed for each registered cooperative on an annual basis to ensure validity of recognition cards and to confirm the status, whether active or inactive, of the cooperative. If the WSLCB finds that the cooperative no longer meets the criteria required under this section, the WSLCB may not renew the cooperative registration.
- Technical changes due to proposed new section regarding purchases of immature plants/clones and seeds from licensed producers by members of registered cooperatives, patients with recognition cards, and designated providers.

New section. WAC 314-55-417 Sales of immature plants or clones and seeds from licensed producers to members of cooperatives, qualifying patients, and designated providers.

- Proposed new section to address changes to law allowing patients with recognition cards and designated providers to purchase immature plants/clones and seeds from licensed producers.
- Moved provisions for members of registered cooperatives making purchases of immature plants/clones and seeds from licensed producers.
- Proposed new rule largely tracks the provisions of the Board Interim Policy on this issue, but makes slight adjustments due to the proposed removal of the 24-hour quarantine requirement prior to transfers of plants/products by licensed producers.

Amendatory section. WAC 314-55-525 Group 2 regulatory violations.

- Advertising penalty adjustments due to the removal of default \$1,000 penalties per advertising offense and direction in statute from Legislature to create a graduated penalty structure for repeat violations of advertising regulations. A graduated penalty structure for these violations already existed in current rule. Simply removing the blanket \$1,000 penalty provisions allows the graduated penalty to function as directed.

- Changes to penalties for monthly tax payments to reflect changes to reporting requirements made in WAC 314-55-089, as well as the removal of the reference to transportation licensees as they do not collect taxes.
- Creation of a penalty for the use of an unauthorized money transmitter for retail sales consistent with the proposed new rule regarding use of payment services by retailers (WAC 314-55-117).

Amendatory section. WAC 314-55-530 Group 3 license violations.

- Technical changes to penalty structure to avoid redundancies and confusion.

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

- This rule is being repealed as the relevant contents of the rule that are still needed are being incorporated into WAC 314-55-079.

WAC 314-55-010 Definitions. The following ((are)) definitions apply for the purpose of this chapter((--Other)) in addition to the definitions ((are)) provided in RCW 69.50.101.

(1) "Applicant" or "marijuana license applicant" means any person or business entity who is considered by the WSLCB as a true party of interest in a marijuana license, as outlined in WAC 314-55-035. However, for purposes of determining an application's priority under RCW 69.50.331 (1)(a), only the person or business entity 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) "Cooperative" means a group of more than one, but no more than four qualified medical marijuana patients and/or designated providers who share responsibility for growing and processing marijuana only for the medical use of the members of the cooperative.

(7) "Domicile" means a person's true, fixed, primary permanent home and place of habitation and the tax parcel on which it is located. It is the place where the person intends to remain and to which the person expects to return when the person leaves without intending to establish a new domicile elsewhere.

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

(9) "Employee" means any person performing services on a licensed premises for the benefit of the licensee whether or not such person is compensated by the licensee.

(10) "End product" means a marijuana product that requires no further processing prior to retail sale.

((11)) "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((7)) or loans money to the applicant/business and expects to be paid back the amount of the loan with or without reasonable interest((, or expects any percentage of the profits from the business in exchange for a loan or expertise)).

((11)) (12) "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.

~~((12))~~ (13) "Harvest" means the marijuana plant material derived from plants of the same strain that were cultivated at the same licensed location and gathered at the same time.

(14) "Immature plant or clone" means a marijuana plant or clone that has no flowers, is less than twelve inches in height, and is less than twelve inches in diameter.

(15) "Intermediate product" means marijuana flower lots or other material lots that have been converted by a marijuana processor to a marijuana mix lot, marijuana concentrate or marijuana-infused product that must be or are intended to be converted further ~~((processed prior to retail sale))~~ to an end product.

~~((13))~~ (16) "Library" means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.

~~((14))~~ (17) "Licensed premises" means all areas of a premises where the licensee has leasehold rights as listed in the property lease submitted to the board. Any vehicle assigned for the purposes of transporting marijuana, ~~((usable))~~ useable marijuana, marijuana concentrates, or marijuana-infused products shall be considered an extension of the licensed premises.

~~((15))~~ (18) "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.

~~((16))~~ (19) "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.

~~((17))~~ (20) "Lozenge" means a marijuana-infused product such as a hard candy, mint, pastille, tablet, or similar type of edible product that is generally swallowed whole, chewed and swallowed, or dissolved in the mouth.

(21) "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.

~~((18))~~ (22) "Marijuana mix" means an intermediate lot that contains multiple strains of useable marijuana and is chopped or ground so no particles are greater than 3 mm.

(23) "Marijuana mix infused" or "mix infused" means an end product that contains marijuana mix and may contain other intermediate products or useable marijuana.

(24) "Marijuana mix packaged" or "mix packaged" means an end product containing only marijuana mix and no other product types.

(25) "Member," except as that term is used in relation to registered cooperatives, 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.

~~((19))~~ (26) "Paraphernalia" means items used for the storage or use of ~~((usable))~~ useable marijuana, marijuana concentrates, or marijuana-infused products, such as, but not limited to, lighters, roach clips, pipes, rolling papers, bongs, and storage containers. Items for

growing, cultivating, and processing marijuana, such as, but not limited to, butane, lights, and chemicals are not considered "paraphernalia."

((+20+)) (27) "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.

((+21+)) (28) "Perimeter" means a property line that encloses an area.

((+22+)) (29) "Plant" means a marijuana plant.

((+23+)) (30) "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.

((+24+)) (31) "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, ((+)) federal government, or metropolitan park district.

((+25+)) (32) "Product(s) otherwise taken into the body" means a marijuana-infused product for human consumption or ingestion intended for uses other than inhalation, oral ingestion, or external application to the skin.

(33) "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.

((+26+)) (34) "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.

((+27+)) (35) "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, ((+)) federal government, or metropolitan park district.

((+28+)) (36) "Residence" means a person's address where he or she physically resides and maintains his or her abode.

((+29+)) (37) "Secondary school" means a high and/or middle school with a physical location: 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.

((+30+)) (38) "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 WSLCB. For purposes of this subsection:

(a) "Product" means marijuana, marijuana concentrates, ~~((usable)) useable~~ marijuana, ~~((and))~~ or 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.

~~((31))~~ (39) "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.

~~((32))~~ (40) "WSLCB" means the Washington state liquor and cannabis board.

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-015 General information about marijuana licenses.

(1) A person or entity must meet certain qualifications under this chapter to receive a marijuana license, which are continuing qualifications ~~((in order))~~ required to maintain the license.

(2) All applicants, licensees, and employees working in each licensed establishment must be at least twenty-one years of age. No one under twenty-one years of age is allowed to enter or remain on a marijuana licensed premises except as provided in RCW 69.50.357.

(3) Minors restricted signs must be posted at all marijuana licensed premises consistent with the requirements in WAC 314-55-086.

(4) A marijuana license applicant may not exercise any of the privileges of a marijuana license until the WSLCB approves the license application.

(5) The WSLCB will not approve any marijuana license for a location where law enforcement access, without notice or cause, is limited. This includes a personal residence.

(6) The WSLCB will not approve any marijuana license for a location on federal lands.

(7) The WSLCB will not approve any marijuana license within the exterior boundaries of the reservation of a federally recognized tribe without the express written consent of the tribe. If a tribe receives written notice from the WSLCB of a license application or change request under RCW 69.50.331 and the tribe does not respond to the WSLCB within thirty days of the date of that notice, the WSLCB will assume the tribe does not consent to the location of the applicant or licensee and the applicant or licensee must find a different location.

(8) The WSLCB will not approve any marijuana retailer license for a location within another business with the exception of the research license consistent with WAC 314-55-073. More than one license ~~((could))~~ may be located in the same building if each licensee has their own area separated by full walls with their own entrance, or if the same business entity holds a producer license and a processor li-

cense at the same location under a single license number. Product may not be commingled.

~~((8))~~ (9) Every marijuana licensee must post and keep posted its license, or licenses, and any additional correspondence containing conditions and restrictions imposed by the WSLCB in a conspicuous place on the premises.

~~((9))~~ (10) In approving a marijuana license, the WSLCB reserves the right to impose special conditions as to the involvement in the operations of the licensed business of any former licensees, their former employees, or any person who does not qualify for a marijuana license.

~~((10))~~ (11) A marijuana producer, processor or retailer licensed by the WSLCB must conduct the production, processing, storage, and sale of marijuana-infused products using sanitary practices.

~~((11)) A marijuana processor licensed by the board must ensure marijuana-infused edible processing facilities are constructed, kept, and maintained in a clean and sanitary condition in accordance with rules and as prescribed by the Washington state department of agriculture under chapters 16-165 and 16-167 WAC.))~~

(12) Marijuana licensees may not allow the consumption of marijuana or marijuana-infused products on or within the licensed premises.

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-018 Prohibited practices—Money advances—Contracts—Gifts—Rebates, discounts, and exceptions, etc. (1) No industry member or ~~((marijuana retailer))~~ licensee shall enter into any agreement which causes undue influence over another ~~((retailer))~~ licensee or industry member. This rule shall not be construed as prohibiting the placing and accepting of orders for the purchase and delivery of marijuana that are made in accordance with usual and common business practice and that are otherwise in compliance with ~~((the rules))~~ chapter 69.50 RCW and this chapter.

(2) No marijuana producer or processor shall advance and no marijuana licensee shall receive money or moneys' worth under an agreement written or unwritten or by means of any other business practice or arrangement such as:

- (a) Gifts;
- (b) Discounts;
- (c) Loans of money;
- (d) Premiums;
- (e) Rebates;

(f) Free product of any kind except as allowed by WAC ~~((314-55-083))~~ 314-55-096 and RCW 69.50.585; or

(g) Treats or services of any nature whatsoever except such services as are authorized in this ~~((rule))~~ section and under RCW 69.50.585.

(3) "Industry member" means a licensed marijuana producer, marijuana processor, marijuana retailer, marijuana transportation licensee, marijuana research licensee, their authorized representatives, and including, but not limited to, any affiliates, subsidiaries, offi-

cers, partners, financiers, agents, employees, and representatives of any ~~((industry member))~~ licensee.

(4) Consistent with WAC 314-55-017, no industry member or employee thereof shall sell to any marijuana licensee or solicit from any such licensee any order for any marijuana tied in with, or contingent upon, the licensee's purchase of some other marijuana, or any other merchandise, paraphernalia, property, or service.

(5) If the WSLCB finds in any instance that any licensee has violated this ~~((regulation))~~ section, then all licensees involved in the violation shall be held equally responsible ~~((for such violation))~~.

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-020 Marijuana license qualifications and application process—Licensing change requests. Each marijuana license application is unique and investigated individually. The WSLCB 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))~~ Consistent with RCW 69.50.331 (7) and (10), the WSLCB shall send a notice to cities and counties, ~~((and may send a notice to))~~ tribal governments ~~((or))~~, and port authorities regarding the marijuana license application within said jurisdiction. The local authority, tribal government, or port authority has twenty days to respond with a recommendation to approve the application or an objection to the applicant, location, or both.

(2) Consistent with RCW 69.50.331 (8)(e), the WSLCB shall send a notice to tribal governments when an applicant or licensee is proposed to be located within the exterior boundaries of the reservation of a federally recognized Indian tribe. The tribal government will have twenty days to respond with an approval to the application. If written approval is not received within thirty days, the WSLCB will assume the tribe does not consent to the applicant's location and the applicant must find a new location.

(3) Applicants for a new marijuana producer, processor, ~~((or))~~ retailer, transportation, or research 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 this requirement 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; and

(e) The notice must be posted for fourteen consecutive days.

~~((3) The WSLCB will use a priority system to determine the order that marijuana retailers are licensed.~~

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

~~(i) Applied to the state liquor and cannabis board 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 service 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 with a copy of the master business from department of revenue business licensing service 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 service 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, department of labor and industries, and the employment security department 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 service 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 service 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, the department of labor and industries, and the employment security department 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))~~) license applicants must meet the qualifications required by the WSLCB before they will be granted a license (~~((regardless of priority))~~).

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

(6) The WSLCB 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 WSLCB and submission of fingerprints to a vendor approved by the WSLCB. 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.

(7) The WSLCB 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.

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

(9) The WSLCB may conduct (~~((a-final))~~) an inspection of the proposed or currently licensed business location, (~~((in order))~~) to determine if the applicant has complied with all the requirements of the license or change to the license or premises requested.

(10) (~~((Per))~~) Under RCW 69.50.331 (1)(c), all applicants applying for a marijuana license must have resided in the state of Washington for at least six months prior to application for a marijuana license. All business entities including, but not limited to, partnerships, employee cooperatives, associations, nonprofit corporations, corporations and limited liability companies, applying for a marijuana license must be formed in Washington. All members, governors, or agents of business entities must also meet the six month residency requirement. Managers or agents who manage a licensee's place of business must also meet the six month residency requirement.

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

~~((12)))~~ (a) As part of the application process, each applicant must submit (~~((in a format supplied by the WSLCB))~~) an operating plan (~~((detailing the following as it pertains))~~) outlining required elements for the location as provided in this chapter pertaining to the license type being sought. The operating plan must be submitted using an operating plan format supplied by the WSLCB. 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	
Employee compensation and benefits data (see subsection (13) of this section)	Employee compensation and benefits data (see subsection (13) of this section)	Employee compensation and benefits data (see subsection (13) of this section)
	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))

(b) After obtaining a license, the license holder must notify the WSLCB in advance of any change in their operating plan. Prior approval is required before the change ((is)) may be implemented.

(12) The WSLCB may place licensing change applications made by a licensee on hold if the change application is reasonably related to an ongoing investigation.

(a) The WSLCB may withdraw licensing change applications pending the results of an adjudicative proceeding regarding a violation of chapter 314-55 WAC. Depending on the outcome of the adjudicative proceeding, the licensee may reapply for the withdrawn licensing change application(s).

(b) Examples of licensing change applications that may be affected under this subsection include:

- (i) Application for additional funding;
- (ii) Application for added medical marijuana endorsement;
- (iii) Assumption of a license;
- (iv) Change in governing people, percentage owned, or stock/unit ownership;
- (v) Change of location;
- (vi) Expanding plant canopy to maximum allotted;
- (vii) Request to alter marijuana site or operating plan;
- (viii) Request to add a processor license; and
- (ix) Splitting a producer and processor license.

(13)(a) ~~((In order))~~ To aid the WSLCB in monitoring the industry as it develops, the WSLCB requests that all applicants and licensees seeking renewal provide the following information:

(b) **Employees compensation and benefits data.**

(i) Will the applicant/licensee provide a living wage (at least one hundred fifty percent of the state minimum wage) to eighty-five percent or more of its hourly employees?

(ii) Will the applicant/licensee provide health insurance to at least eighty-five percent of its hourly employees?

(iii) Will the applicant/licensee provide a defined benefit pension plan to at least eighty-five percent of its hourly employees?

(iv) Will the applicant/licensee provide five or more paid sick days annually to at least eighty-five percent of its hourly employees?

(v) Is there a signed labor peace agreement or collective bargaining agreement with a labor organization in place?

(14) 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.

(15) 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.

(16) Upon failure to respond to the WSLCB licensing and regulation division's requests for information and/or documentation within the timeline provided, the application may be administratively closed or denial of the application will be sought.

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-035 ~~((What))~~ Persons ~~((or))~~ and entities ~~((have to))~~ that must qualify for a marijuana license((?))—True parties of interest, financiers, consultants, and contractual agreements. A marijuana license must be issued in the name(s) of ~~((the))~~ all true party(ies) of interest for the license.

(1) **True parties of interest((—)).** For purposes of this title, "true party of interest" means a person or business entity that holds an ownership interest in the marijuana license, has management or control of marijuana business activities as defined in this section under the license, or receives a share of the net profits of the marijuana business. The following true parties of interest must be qualified to be listed on the license, including residency requirements:

True party of interest	Persons to be qualified
Sole proprietorship	Sole proprietor and spouse.
General partnership	All partners and spouses.
Limited partnership, limited liability partnership, or limited liability limited partnership	<ul style="list-style-type: none">• All general partners and their spouses.• All limited partners and spouses.

True party of interest	Persons to be qualified
Limited liability company	<ul style="list-style-type: none"> • All members and their spouses. • All managers and their spouses.
Privately held corporation	<ul style="list-style-type: none"> • All corporate officers (or persons with equivalent title) and their spouses. • All stockholders and their spouses.
Publicly held corporation	<p>All corporate officers (or persons with equivalent title) and their spouses.</p> <p>All stockholders and their spouses.</p>
Multilevel ownership structures	All persons and entities that make up the ownership structure (and their spouses).
<p>Any entity or person ((inclusive of financiers) that are)) expecting a percentage of the profits in exchange for a monetary loan or expertise.</p> <p><u>Any entity or person who exercises control over the licensed business in exchange for money or expertise.</u></p> <p>Financial institutions are not considered true parties of interest.</p>	<p>Any entity or person 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.</p> <p>Any entity or person who exercises control over the licensed business in exchange for money or expertise.</p> <p>For the purposes of this chapter:</p> <ul style="list-style-type: none"> • "Gross profit" includes the entire gross receipts from all sales and services made in, upon, or from the licensed business. • "Net profit" means gross sales minus cost of goods sold.
Nonprofit corporations	All individuals and spouses, and entities having membership rights in accordance with the provisions of the articles of incorporation or the bylaws.

(2) For purposes of this section, "true party of interest" does not mean:

(a) A person or entity receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation, unless the lessor or property manager exercises control over or participates in the management of the business.

(b) A person who receives a bonus as an employee, if: The employee is on a fixed wage or salary and the bonus is not more than twenty-five percent of the employee's prebonus annual compensation; or the

bonus is based on a written incentive/bonus program that is not out of the ordinary for the services rendered.

(c) An employee of a licensee receiving commission-based compensation consistent with this subsection.

(i) Commission-based compensation based on an individual employee's product sales performance is permissible for employees of producers and processors only and will not make the employee receiving commission-based compensation a true party of interest so long as the commission-based compensation arrangement does not create a default true party of interest relationship.

(ii) Commission-based compensation arrangements between a licensee and its employee must be in writing.

(iii) No more than five percent of the gross profits of the business may be given to any one employee under a commission-based compensation arrangement.

(iv) An employee of a licensee that operates under a commission-based compensation arrangement must be listed as an employee of the licensee with the Washington state employment security department.

(d) A person or entity contracting with the applicant(s) to sell the property, unless the contract holder exercises control over or participates in the management of the licensed business.

(e) A consultant receiving flat or hourly rate compensation under a written contractual agreement so long as the consultant does not receive any percentage of profits or interest in the licensed business or management or control of the licensed business such that would indicate or create a true party of interest relationship.

(3) **Financiers** ((—)). A financier is a person or entity other than a financial institution that supplies capital or financial support to a marijuana licensee. Such financial relationships are limited to loans with reasonable interest or gifts of funds.

(a) A financier may not receive an ownership interest, control of the business, or a profit-sharing interest or percentage of the profits in exchange for financial support unless the financier is a true party of interest with prior WSLCB approval and is qualified on the license as such.

(b) Washington state residency requirements do not apply to financiers who are not also a true party of interest, but all financiers must be United States residents.

(c) The WSLCB will conduct a financial investigation as well as a criminal background of financiers and all funds must be approved by the WSLCB prior to transfer to the marijuana licensee.

(4) **Persons who exercise control of business** ((—)).

(a) The WSLCB ((will)) may conduct an investigation of any person or entity who exercises any control over the applicant's business operations. This may include ((both)) a financial investigation ((and/or)), a criminal history background, or both.

(b) Management of daily business operations will not generally be considered as constituting a true party of interest unless the surrounding circumstances or cumulative duties or powers indicate that the person is exercising management or control of the business to such an extent so as to constitute a true party of interest role. Examples of management or control of a licensed business that would constitute a true party of interest include, but are not limited to, the following:

(i) Any person or legal entity, other than an employee acting under the direction of the owner, that exercises control over, or is entitled to exercise control over, the business;

(ii) Any person or legal entity, other than an employee acting under the direction of the owner, that incurs, or is entitled to incur, debt or similar obligations on behalf of the business; or

(iii) Any person or legal entity, other than the employee acting under the direction of the owner, that enters into, or is entitled to enter into, a contract or similar obligations on behalf of the business.

(5) After licensure, ~~((a true party of interest, including financiers, must))~~ licensees must:

(a) Continue to disclose the source of funds for all moneys invested in the licensed business. The WSLCB must approve ~~((these))~~ all funds prior to investing them into the business; and

(b) Notify the WSLCB and receive WSLCB approval of any changes in ownership prior to the changes being made as provided in WAC 314-55-120.

(c) Failure to follow the requirements of this subsection is a violation of this section.

(6) A person or entity who is entitled to receive a percentage of the profits or exercises control over the licensed business under an agreement or contract with a licensee may be named on the license as a true party of interest. Examples of circumstances where a person or entity may be qualified as a true party of interest include, but are not limited to, lease, operating plan, consulting, or management agreements.

(7) Licensing agreements and consulting contracts.

(a) A licensed marijuana business may enter into a licensing agreement, or consulting contract, with any individual, partnership, employee cooperative, association, nonprofit corporation, or corporation, for:

(i) Any goods or services that are registered as a trademark under federal law or under chapter 19.77 RCW;

(ii) Any unregistered trademark, trade name, or trade dress; or

(iii) Any trade secret, technology, or proprietary information used to manufacture a cannabis product or used to provide a service related to a marijuana business.

(b) All agreements or contracts entered into by a licensed marijuana business, as authorized under this section, must be disclosed to the WSLCB. All agreements or contracts must be sent to the WSLCB via email to licensingcontracts@lcb.wa.gov for review prior to the parties signing the agreement or contract. Once the contract has been reviewed by the WSLCB, the licensee will receive a reply regarding whether the agreement or contract is acceptable under chapter 69.50 RCW and the rules in this chapter.

(c) Agreements or contracts under this subsection cannot create a true party of interest relationship unless the licensee also receives approval that the person or entity be qualified as a true party of interest and be listed on the license consistent with the requirements of this section.

(d) Agreements or contracts under this subsection cannot create an expectation of exclusivity or dictate the circumstances under which the marijuana business should be operated.

WAC 314-55-050 Reasons the WSLCB may seek denial, suspension, or cancellation of a marijuana license application or license. Following is a list of reasons the WSLCB may deny, suspend, or cancel a marijuana license application or license. Per RCW 69.50.331, the WSLCB 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 WSLCB during the evaluation process.

(3) The applicant makes a misrepresentation of fact, or fails to disclose a material fact to the WSLCB 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 WSLCB to be gained in a manner which is in violation by law.

(7) Denies the WSLCB 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 WSLCB 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 (10).

(10) Except as provided in subsection (11) of this section, the WSLCB 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 arcade, the licensee must provide the WSLCB with a copy of the local ordinance that describes the distance required by the city or county the facility will be located.

(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.

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

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

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

(16) Failure to operate in accordance with the WSLCB approved operating plan.

(17) The WSLCB 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 17-04-038, filed 1/25/17, effective 2/25/17)

WAC 314-55-073 Marijuana research license. A marijuana research license allows a holder of the license to produce, process, and possess marijuana for the limited research purposes provided in RCW 69.50.372. The WSLCB designates a scientific reviewer (reviewer) to review research applications and make recommendations for the approval or denial of research projects and to assess licensed research activities. The following provisions are in addition to the requirements for marijuana research licensees provided in RCW 69.50.372.

(1) Eligibility and continuing requirements for research license applications, prohibitions and restrictions.

(a) Other than the restrictions listed in this subsection, any person, organization, agency, or business entity may apply for a marijuana research license.

(b) Other marijuana licensees may apply for a research license. Facilities at which the research is conducted must be wholly separate and distinct from the marijuana business, except:

(i) Licensed producers with a research license and approved research project may grow marijuana plants or possess marijuana for research purposes at the producer's licensed premises. However, all marijuana grown or possessed for research purposes or purposes other than those related to the research project must be kept wholly separated and distinct from commercial operations and must not be comingled with or diverted to marijuana grown for commercial purposes or purposes other than those related to the research project; and

(ii) Licensed processors with a research license and approved research project may possess marijuana for research purposes at the processors licensed premises. However, all marijuana possessed for research purposes must be kept wholly separated and distinct from all marijuana possessed for commercial purposes or purposes other than those related to the research project and must not be comingled with or diverted to marijuana possessed for commercial purposes or purposes

other than those related to the research project. Licensed processors who do not also hold a producer license may not grow marijuana plants for the purposes of research under a research license at the processor's licensed location.

(c) Labs certified to perform quality assurance testing on marijuana and marijuana products by the WSLCB may apply for a research license. Certified labs with a research license and approved research project must ensure that all marijuana possessed for research purposes is wholly separated from and is not comingled with marijuana possessed for state required testing purposes for licensed producers or processors or marijuana possessed for any reason other than research purposes.

(d) All research license applicants and persons conducting research under the research license must be twenty-one years of age or older.

(e) All research license applicants and those persons that have managing control over an organization, agency, or business entity must pass a criminal background check and financial investigation prior to being eligible to receive a research license.

(f) Except as otherwise provided by chapter 69.50 RCW and agency rule, no applicant for a research license may possess any marijuana plants or marijuana for research purposes unless and until the research project is approved and the applicant is notified that the research license is approved in writing by the WSLCB.

(g) No research licensee may conduct research unless and until the research project is approved by the reviewer and the WSLCB in writing.

(2) **Initial applications.**

(a) **Application made with business licensing services (BLS).**

(i) Applicants for a research license must apply through BLS to begin the application process for a research license.

(ii) Upon submitting an application for a research license through BLS, the applicant will receive an application letter from the WSLCB directing the applicant to submit the additional application materials directly to the WSLCB's designated scientific reviewer (reviewer).

(A) The applicant must submit complete and accurate additional application materials directly to the reviewer within thirty days of the date of the application letter from the WSLCB or by the date indicated on the application letter. It is the responsibility of the research license applicant to comply with the application requirements in this section and ensure the application is complete, accurate, and successfully submitted to the reviewer.

(B) Incomplete or incorrect additional application materials, materials that do not adhere to the content requirements in this section, or materials not received by the reviewer by 5:00 p.m. on the 30th day or the application date as indicated on the letter from the WSLCB will not be considered by the reviewer and the WSLCB will withdraw the application after receiving notice in writing from the reviewer.

(b) **Additional application materials requirements.**

(i) Application materials that do not adhere to the content requirements in this section or incomplete or incorrect applications will be withdrawn.

(ii) The applicant is responsible for ensuring that no information is included in the research plan that may compromise the applicant's ability to secure patent, trade secret, or other intellectual

property protection. All application documents must be submitted by a person who has the legal authority to represent the entity if the applicant is an entity other than an individual person.

(iii) All documents must be submitted to the reviewer in a legible PDF format.

(iv) All of the following information and documents are required for each initial application:

(A) A completed cover page form, marijuana research license application form, and signature page form created by the WSLCB and available at the WSLCB's web site at www.lcb.wa.gov.

(B) A research plan limited to ~~((four))~~ eight pages, not including references or citations, that includes the following information:

(I) Purpose and goal(s) of the proposed research project(s);

(II) Key milestones and timelines for the research project(s);

(III) Background and preliminary studies;

(IV) Amount of marijuana to be grown, if applicable, including the justification with respect to milestone tasks;

(V) Anticipated cost of the proposed research project(s) and funding available for the work. The scientific reviewer may request additional information or ask clarifying questions about the cost of the proposal to determine whether the budget meets the scope and design of the proposed project;

(VI) Key personnel and organizations, including names and roles;

(VII) Facilities, equipment, and other resources required and available for conducting the proposed research project(s).

(C) A biosketch for each individual involved in executing the proposed research project limited to two pages per individual performing technical and administrative functions essential to performing the proposed research, including proof that the individual is twenty-one years of age or older. Biosketches must be prepared using the National Institutes of Health (NIH) biographical sketch format, available at <http://grants.nih.gov/grants/forms/new-renewal-revisions.htm>.

(D) Letters of support limited to two pages per letter confirming the commitment of time and resources from external personnel or organizations if external personnel or organizations will participate in research activities under an approved research project. Letters of support are required to confirm the commitment of time and resources from personnel involved in the proposed research project(s) who are not employed at the applicant organization. Letters of support must include specific details regarding the type(s) and magnitude of the time and resources being committed to the proposed research project(s) and must be signed by individuals having the authority to make such commitments.

(E) For all project(s) involving human or animal subjects, documentation of all required institutional review board (IRB) or institutional animal care and use committee (IACUC) approvals. Documents must be provided on IRB or IACUC letterhead and be signed by authorized officials of those regulatory bodies.

(v) Documents that do not conform to the requirements in subsection (b) of this section may be withdrawn. All nonform documents must conform to the following requirements:

(A) Eight and one-half by 11-inch portrait-oriented page dimensions;

(B) Single-spaced with all margins measuring at least one inch; and

(C) At least 12-point font in Times New Roman or Arial, not proportionately reduced.

(c) **Review by the WSLCB's designated scientific reviewer.**

(i) If the applicant submits application materials to the reviewer by the required deadline specified by the WSLCB's application letter and the reviewer determines the additional application materials are complete and meet the document requirements specified in this section, the reviewer will proceed with reviewing the research project to evaluate whether the project complies with the provisions of RCW 69.50.372 (1) and (2). The scientific reviewer may require the applicant to provide additional information if the scientific reviewer determines that more information is necessary to complete the review.

(ii) When evaluating research projects, the reviewer must:

(A) Ensure confidentiality; ~~((and))~~

(B) Screen members of the reviewer panel for any conflicts of interest and take appropriate measures if a conflict of interest is identified;

(C) Review all information, including the budget, to evaluate whether the scope and design of the proposed project matches the budget and resources of the applicant; and

(D) The scientific reviewer may require the applicant to submit to a site inspection. The site inspection may occur after the initial review and before the license is issued to evaluate the adequacy of the location, facilities, or equipment to complete the proposed project.

(iii) The reviewer will assess fees for the review of the research project proposal directly to the applicant pursuant to RCW 69.50.372(7). The reviewer will not recommend approval of an application for any research license for which an unpaid balance of fees to the reviewer is due regardless of the recommendation of the reviewer regarding the sufficiency of the research project.

(iv) If at any time during the process of review the reviewer finds that the additional application materials are not complete, the reviewer will notify the WSLCB in writing and the WSLCB will withdraw the application.

(v) The reviewer will supply a written evaluation to the WSLCB in writing after completing review of the research project. Evaluations will provide the approval recommendation status; determination(s) of the applicable research category or categories; and, as applicable, the reasons for a "Not Approved" recommendation. The WSLCB will provide written evaluations to applicants following completion of the review process by the reviewer along with the WSLCB's approval or denial of the research license.

(d) **WSLCB requirements and licensing process.** If the reviewer indicates the application for a research license should be approved, the following requirements must be met prior to final approval of the license by the WSLCB.

(i) The WSLCB will request criminal background and financial information from the research license applicant and evaluate the applicant(s) pursuant to the standards and requirements established in WAC 314-55-020 except that research license applicants are not subject to prioritization under subsection (3) of that section;

(ii) Funding of the proposed research must be disclosed by the applicant(s) in amount, timing and source(s). Funding sources may include organizational resources and individuals and organizations that are not part of the person, organization, agency, or business entity applying for the research license. Out-of-state resources may be included, but must be identified;

(iii) The applicant(s) must adhere to the notice posting requirements under WAC 314-55-020;

(iv) The applicant must demonstrate access to and proficiency with the traceability system; and

(v) The applicant must meet facility security requirements as provided in WAC 314-55-083 prior to being granted a license.

(3) Research license withdrawal and denials.

(a) The WSLCB will withdraw an application if:

(i) The application or additional application materials are determined incomplete or incorrect by the WSLCB or its designated reviewer;

(ii) The additional application materials are not timely received by the reviewer as provided in this section; or

(iii) The applicant(s) request withdrawal of a research license application at any time in the application process. The applicant must request the withdrawal in writing and is responsible for any review costs due to the reviewer. The voluntary withdrawal of a research license application does not result in a hearing right.

(b) The WSLCB will deny a research license if:

(i) The scientific reviewer does not recommend approval of the license after reviewing the research proposal for compliance with this section or RCW 69.50.372;

(ii) The applicant does not meet the requirements for a license under this section or RCW 69.50.372; or

(iii) The applicant provides false or misleading information in any of the materials it submits to the WSLCB or the reviewer.

(c) If the WSLCB denies a research application for the reasons provided in (b)(iii) of this subsection or for failing to meet criminal history or administrative violations requirements under this section, the applicant(s) is prohibited from reapplying for a research license for one calendar year from the date of the WSLCB's denial of the license.

(d) A person or entity that has outstanding unpaid review fees owing to the scientific reviewer is prohibited from reapplying for a research license until all review fees are paid to the scientific reviewer.

(4) Reporting required.

(a) The WSLCB or the WSLCB's designated reviewer may require reporting by or auditing of research licensees as necessary.

(b) The WSLCB's designated reviewer must submit an annual status report of all completed and ongoing research projects for the previous year to the WSLCB by December 31st of each calendar year.

(c) The licensee must adhere to the reporting requirements in the traceability system under WAC 314-55-083.

(d) The reviewer must immediately notify the WSLCB if it receives information indicating that a research licensee is operating outside the scope of the projects approved under a research license.

(5) Adding an additional research project or changing existing approved research project process (after licensure).

(a) A research licensee is restricted to only those research activities under a research project that has been reviewed and approved by reviewer.

(b) Applications to add a new project or change an existing approved project is the same as what is required for initial application except that a new license application through BLS is not required. To apply to add a new research project or change an existing approved project, a research licensee must submit all materials to the reviewer

as required under subsection (2)(b) of this section. Incomplete project applications will not be considered.

(c) The reviewer will review the application for a new research project or change to an existing approved research project pursuant to subsection (2)(c) of this section. The reviewer will supply a written evaluation to the WSLCB and the licensee in writing after completing review of the application for a new research project or a change to an existing approved research project. Evaluations will provide the approval recommendation status; determination(s) of the applicable research category or categories; and, as applicable, the reasons for a "Not Approved" recommendation.

(6) Research license renewals.

(a) Research license renewals operate on an annual basis, based on the license issuance date. A licensee must have an ongoing approved research project or an application for a new research project to be eligible for license renewal. The WSLCB will notify the licensee and reviewer ninety days prior to the license renewal date. The licensee must provide a status report to the reviewer or an application for a new research project if the licensee's ongoing approved research project will end within thirty days prior to or after the renewal date. The status report or application must be received by the reviewer within thirty days of the ninety-day renewal notice from the WSLCB or the license will not be renewed.

(b) The reviewer will notify the WSLCB in writing if the licensee meets the requirements for renewal not later than fifteen days prior to the licensee's renewal date.

(c) If the reviewer determines that the research project does not meet requirements for renewal due to lack of an ongoing project or for failure to meet the requirements of RCW 69.50.372 or this section for a proposed new project, the reviewer will recommend the WSLCB not renew the license.

(d) The WSLCB will review the licensee's violation history and criminal background check prior to renewal. If the violation history or criminal records disqualifies the licensee from eligibility for a research license under WAC 314-55-050, the WSLCB will not renew the license.

(7) License revocation.

(a) The WSLCB may revoke an application for the following reasons:

(i) The WSLCB has reason to believe that marijuana is being diverted from the research licensee;

(ii) The research licensee operates outside the scope of the research project(s) approved under the license issued to the licensee;

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

(iv) The WSLCB finds that the licensee possesses marijuana plants, marijuana, or marijuana products that are not accounted for in the traceability system;

(v) The research licensee makes changes to their operating plan, entity structure, or location without prior approval from the WSLCB;

(vi) The research licensee fails to maintain security requirements for the licensed research facility; or

(vii) The licensee violates any provision of chapter 69.50 RCW or this chapter.

(b) A licensee may request voluntary cancellation of a license at any time. The licensee must request cancellation of a research license

to the WSLCB in writing. The voluntary cancellation of a research license does not result in a hearing right.

(8) Marijuana disposal requirements.

(a) Licensees must dispose of marijuana as provided in WAC 314-55-097.

(b) Licensees must dispose of marijuana if the research license is discontinued for any reason. A licensee may transfer plants to another marijuana research licensee. A licensee may work with the WSLCB to dispose of marijuana or marijuana plants.

(9) An applicant or licensee may request an administrative hearing to contest the withdrawal, denial, nonrenewal, or revocation of a research license pursuant to chapter 34.05 RCW. A request for a hearing must be made in writing and received by the WSLCB no later than twenty days after the date the notification of withdrawal, denial, nonrenewal, or revocation was mailed to the applicant or licensee. Appeal requests submitted in paper form may be delivered to the WSLCB in person during normal business hours at 3000 Pacific Avenue S.E., Olympia, WA 98501, or mailed to the WSLCB. Mailed appeal requests must be addressed to: WSLCB, ATTN: Adjudicative Proceedings Coordinator, P.O. Box 43076, Olympia, WA 98504-3076 or, for certified mail, WSLCB, ATTN: Adjudicative Proceedings Coordinator, 3000 Pacific Avenue S.E., Olympia, WA 98501.

AMENDATORY SECTION (Amending WSR 16-19-102, filed 9/21/16, effective 10/22/16)

WAC 314-55-075 ((What is a)) Marijuana producer license ((and what are the)) Privileges, requirements, and fees ((related to a marijuana producer license?)) (1)(a) 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))~~ may also produce and sell:

(i) Marijuana plants, seed, and plant tissue culture to other marijuana producer licensees; ~~((and))~~

(ii) Immature marijuana plants or clones and marijuana seeds to members of a registered cooperative, qualifying patients, or designated providers under the conditions provided in ~~((WAC 314-55-410))~~ this chapter; and

(iii) Immature marijuana plants or clones and marijuana seeds to a licensed marijuana researcher under the conditions provided in this chapter.

(b) 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. An outdoor grow must be physically separated at least twenty feet from another licensed outdoor grow. In addition, outdoor grows cannot share common walls or fences.

(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 annual fee for issuance and renewal of a marijuana producer license is one thousand three hundred eighty-one dollars. The WSLCB 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))~~ is responsible for all fees required for ~~((the))~~ criminal history checks.

(4) ~~((The WSLCB 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 WSLCB.))~~ The application window for marijuana producer licenses is closed. The WSLCB may reopen the marijuana producer application window ~~((after the initial evaluation of the applications received and))~~ at subsequent times when the WSLCB deems necessary.

(5) Any entity and/or principals within any entity are limited to an interest, as defined in WAC 314-55-035, in no more than three marijuana producer licenses.

(6) The maximum amount of space for marijuana production ~~((will be imposed at a later date))~~ cannot exceed the amount licensed. 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 up to ten thousand square feet; and

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

(7) The WSLCB 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 square feet the WSLCB 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 WSLCB may reduce the tier of licensure.

(8) If the total amount of square feet of marijuana production exceeds the maximum square feet, the WSLCB 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.

(10) A producer may not treat or otherwise adulterate useable marijuana with any organic or nonorganic chemical or other compound whatsoever to alter the color, appearance, weight, or smell of the useable marijuana.

(11) A marijuana producer must make quality assurance test results available to any processor purchasing product. A marijuana producer must label each lot of marijuana with the following information:

- (a) Lot number;
- (b) UBI number of the producer; and
- (c) Weight of the product.

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-077 ~~((What is a)) Marijuana processor license ((and what are the))—Privileges, 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)) useable~~ marijuana, marijuana concentrates, and marijuana-infused products for sale at wholesale to marijuana processors and marijuana retailers.

(2) Application and license fees.

(a) 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.

(b) The annual fee for issuance and renewal of a marijuana processor license is one thousand three hundred eighty-one dollars. The WSLCB 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 is responsible for all fees required for the criminal history checks.

(c) The application window for marijuana processor licenses is closed. The WSLCB may reopen the marijuana processor application window at subsequent times when the WSLCB deems necessary.

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

(4)(a) A marijuana processor that makes marijuana-infused solid or liquid product meant to be ingested orally (marijuana edibles) must obtain a marijuana-infused edible endorsement from the department of agriculture as required under chapter 15.125 RCW and rules adopted by the department to implement that chapter (chapter 16-131 WAC). A licensee must allow the WSLCB or their designee to conduct physical visits and inspect the processing facility, recipes, and records required under WAC 314-55-087 during normal business hours or at any time of apparent operation without advance notice.

(b) A marijuana processor licensed by the board must ensure marijuana-infused edible processing facilities are constructed, kept, and maintained in a clean and sanitary condition in accordance with rules and as prescribed by the Washington state department of agriculture under chapter 15.125 RCW and rules promulgated to implement chapters 16-131, 16-165 and 16-167 WAC.

(5)(a) A marijuana processor ~~((is allowed to)) may~~ blend tested ~~((usable)) useable~~ marijuana from multiple lots into a single package for sale to a marijuana retail licensee ~~((providing)) so long as~~ 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)) (b) A processor may not treat or otherwise adulterate useable marijuana with any organic or nonorganic chemical or other~~

compound whatsoever to alter the color, appearance, weight, or smell of the useable marijuana.

(6) Recipes, product, packaging, and labeling approval.

(a) A marijuana processor licensee must obtain label and packaging approval from the WSLCB for all marijuana-infused products meant for oral ingestion 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 WSLCB for approval. More information on the product, packaging, and label review process is available on the WSLCB's web site at www.lcb.wa.gov.

(b) All recipes for marijuana-infused products meant for oral ingestion (marijuana edible products) must be approved by the department of agriculture under chapter 16-131 WAC. Licensees must obtain recipe approval from the department of agriculture prior to submitting any marijuana edible products, packages, and labels for review and approval by the WSLCB. 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 WSLCB or its designee.

(c) If the WSLCB denies a marijuana-infused product for sale in marijuana retail outlets, the marijuana processor licensee may request an administrative hearing ((per)) under chapter 34.05 RCW, Administrative Procedure Act.

((4)) (7) With the exception of the marijuana, all ingredients used in making marijuana-infused products for oral ingestion must be a commercially manufactured food as defined in WAC 246-215-01115.

((5)) (8) Marijuana-infused edible products in solid or liquid 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)):

(a) Be homogenized to ensure uniform disbursement of cannabinoids throughout the product((-

(d) All marijuana-infused solid edibles must)); and

(b) Until January 1, 2019, prominently display on the label "This product contains marijuana."

((6) 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."

(7)) (9) A marijuana processor is limited in the types of food or drinks they may infuse with marijuana. Marijuana-infused products that require cooking or baking by the consumer are prohibited. 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)) include:

- (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 WSLCB may designate other food items that may not be infused with marijuana.

~~((8) 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 WSLCB or its designee.~~

~~(9) 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.~~

~~(10) The annual fee for issuance and renewal of a marijuana processor license is one thousand dollars. The WSLCB will conduct 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.~~

~~(11) 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) and (11) must pass a processing facility inspection. Ongoing annual processing facility compliance inspections may be required. The WSLCB 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 WSLCB 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 WSLCB to suspend or revoke a marijuana license.

~~(12) The WSLCB 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 WSLCB. The WSLCB 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 WSLCB deems necessary.~~

~~(13) 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.~~

~~(14) Any entity and/or principals within any entity are limited to no more than three marijuana processor licenses.~~

~~(15)) (10) Marijuana processor licensees are allowed to have a maximum of six months of their average ((usable)) useable marijuana and six months average of their total production on their licensed premises at any time.~~

~~((16)) (11) **Processing service arrangements.** A processing service arrangement is when one processor (processor B) processes useable marijuana or an altered form of useable marijuana (marijuana product) for another licensed processor (processor A) for a fee.~~

~~(a) Processor A is the product owner. However, processor B may handle the product under its license as provided in chapter 69.50 RCW and this chapter. Processor B is not allowed to transfer the product to a retailer and may only possess marijuana or marijuana products received from processor A for the limited purposes of processing it for ultimate transfer back to processor A.~~

~~(b) Processing service arrangements must be made on a cash basis only as provided in WAC 314-55-115 and payment for the service and return of the processed product must be made within thirty calendar days of delivery to processor B. Failure to do so as provided by the preceding sentence is a violation of this section and any marijuana or marijuana product involved in the transaction will be subject to seizure and destruction. Payment with any marijuana products, barter, trade, or compensation in any form other than cash for processing service arrangements is prohibited under processing service arrangements.~~

~~(c) Each processor that enters into a processing service arrangement must include records for each service arrangement in recordkeeping documents which must be maintained consistent with this chapter.~~

~~(12) Marijuana may not be returned by any retail licensee to any processor except as provided in this section.~~

~~(a) Every processor must maintain on the licensed premises for a period of five years complete records of all refunds and exchanges made under this section including an inventory of marijuana and marijuana products returned to the processor by any retail licensee.~~

~~(b) Marijuana may be returned by a retail licensee in the event a retailer goes out of the business of selling marijuana at retail and a cash refund, as defined by WAC 314-55-115, may be made upon the return of the marijuana or marijuana products, so long as WSLCB approval is acquired prior to returns and refunds under this subsection.~~

(c) Marijuana products different from that ordered by a retailer and delivered to the retailer may be returned to a processor and either replaced with marijuana products which were ordered or a cash refund, as defined by WAC 314-55-115, may be made. These incorrect orders must be discovered and corrected within eight days of the date the delivery was made to be eligible for returns and refunds under this subsection.

(d) A marijuana processor (~~(must)~~) may 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 responsibility of the retailer to ensure the product or sample jar is returned to the processor.

AMENDATORY SECTION (Amending WSR 16-19-102, filed 9/21/16, effective 10/22/16)

WAC 314-55-079 ~~((What is a)) Marijuana retailer license ((and what are the)) Privileges, requirements, and fees ((related to a marijuana retailer license?))~~. (1) A marijuana retailer license allows the licensee to sell only ~~((usable))~~ useable marijuana, marijuana concentrates, marijuana-infused products, ~~((and))~~ marijuana paraphernalia, and lockable boxes to store marijuana at retail in licensed retail outlets to persons twenty-one years of age and older, except as allowed for persons under twenty-one years of age consistent with RCW 69.50.357 and WAC 314-55-080.

~~(2) ((Marijuana-infused products listed in WAC 314-55-077(6)) are prohibited for sale by a marijuana retail licensee.~~

~~(3) Internet sales and delivery of product to customers is prohibited.)~~ The WSLCB may accept applications for marijuana retail licenses at time frames published on its web site at www.lcb.wa.gov. Using estimated consumption data and population data obtained from the office of financial management (OFM) population data, the WSLCB will determine the maximum number of marijuana retail locations per county.

(a) 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.

(b) The number of retail licenses determined by the board can be found on the WSLCB web site at www.lcb.wa.gov.

(3) Any entity and/or principals within any entity are limited to no more than five retail marijuana licenses.

(4) Application and license fees.

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

~~((5))~~ (b) The annual fee for issuance and renewal of a marijuana ~~((retailer's))~~ retailer license is one thousand three hundred eighty-one dollars. The WSLCB 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))~~ is responsible for all fees required for the criminal history checks.

~~((+6+))~~ (5) Internet sales and delivery of product to customers are prohibited.

(6) Sales of marijuana-infused products not permissible under WAC 314-55-077 are prohibited.

(7) Marijuana retailers may not sell marijuana products below the current acquisition cost.

~~((+7+))~~ (8) All marijuana products must be stored behind a counter or other barrier to ensure a customer does not have direct access to the product.

(9) A marijuana retailer may not sell lockable boxes for less than the cost of acquisition or sell boxes received as a donation. The donation of lockable boxes must come from a person or entity that is not a licensed marijuana producer, processor, or retailer.

(10) Marijuana retailer licensees are allowed to have a maximum of four months of their average inventory on their licensed premises at any given time.

~~((+8+))~~ (11) A marijuana retailer may transport product to other locations operated by the licensee or to return product to a marijuana processor as outlined ~~((in the transportation rules))~~ in WAC 314-55-085.

~~((+9+))~~ (12) A marijuana retailer may accept returns of open marijuana products. Products must be returned in their original packaging with the lot, batch, or inventory ID number fully legible.

~~((+10+))~~ (13) A marijuana retailer may dispose of marijuana products as provided in WAC 314-55-097. ~~((Marijuana retailers must give seventy-two hours' notice to WSLCB enforcement prior to disposing of marijuana products.))~~

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-080 Medical marijuana 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) Qualifying patients between eighteen and twenty-one years of age with a recognition card may enter and remain on the premises of a retail outlet holding a medical marijuana endorsement and may purchase products for their personal medical use. Qualifying patients who are under the age of eighteen with a recognition card and who accompany their designated providers may enter and remain on the premises of a retail outlet holding a medical marijuana endorsement, but may not purchase products for their personal medical use. Only a designated provider may purchase products for a qualifying patient under the age of eighteen who holds a valid recognition card.

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

(a) Follow all rules adopted by the department of health regarding retail sales of medical marijuana;

(b) Have a consultant on staff in accordance with department of health rules;

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

(d) Maintain at all times, a representative assortment of marijuana products necessary to meet the needs of qualified patients and designated providers;

(e) Not market marijuana concentrates, (~~(usable)~~) useable 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 database established by the department of health;

(g) Issue recognition cards and agree to enter qualifying patients and designated providers into the database in compliance with the department of health standards;

(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 for a minimum of three years)~~) records to document the validity of tax exempt sales as prescribed by the department of revenue for a minimum of five years. For the documentation requirements in RCW 69.50.375 (3) (e), licensees are not required to separately keep copies of the qualifying patient's or designated provider's recognition card because this information is stored in the medical marijuana authorization database;

(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 database;

(ii) Recognition of valid recognition cards; and

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

(~~((3))~~) **(4)** **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.

(~~((4))~~) **(5)** **Unlicensed practice of medicine.** No owner, employee, or volunteer of a retail outlet and 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))~~) **(6)** Failure to comply with subsections (3) and (~~((4))~~) **(5)** of this section may result in suspension or revocation of the medical marijuana endorsement.

WAC 314-55-083 ~~((What are the))~~ Security and traceability requirements for ((a)) marijuana licensees((?)). The security requirements for a marijuana licensee are as follows:

(1) **Display of identification badge.** All licensees and employees on the licensed premises shall be required to hold and properly display an identification badge issued by the licensed employer at all times while on the licensed premises and engaged in the transportation of marijuana. The identification badge must list the licensee's trade name and include the person's full and legal name and photograph. All licensees and employees must have their state issued identification available to verify the information on their badge is correct.

(a) All nonemployee visitors to the licensed premises, other than retail store customers, shall be required to hold and properly display an identification badge issued by the licensee at all times while on the licensed premises.

(b) A log must be kept and maintained showing the full name of each visitor entering the licensed premises, badge number issued, the time of arrival, time of departure, and the purpose of the visit.

(c) All log records must be maintained on the licensed premises for a period of three years and are subject to inspection by any WSLCB employee or law enforcement officer, and must be copied and provided to the WSLCB or law enforcement officer upon request.

(d) Employees, visitors, and other persons at a marijuana licensed premises, including persons engaged in the transportation of marijuana, must provide identification to a WSLCB enforcement officer upon request.

(2) **Alarm systems.** At a minimum, each licensed premises must have a security alarm system on all perimeter entry points and perimeter windows. Motion detectors, pressure switches, duress, panic, and hold-up alarms may also be ~~((utilized))~~ used.

(3) **Surveillance system.** At a minimum, a licensed premises must have a complete video surveillance system with minimum camera resolution of 640 x 470 pixels or pixel equivalent for analog. The surveillance system storage device and/or the cameras must be internet protocol (IP) compatible. All cameras must be fixed and placement ~~((shall))~~ must allow for the clear and certain identification of any person and activities in controlled areas of the licensed premises. All entrances and exits to an indoor facility ~~((shall))~~ must be recorded from both indoor and outdoor, or ingress and egress vantage points. All cameras must record continuously twenty-four hours per day and at a minimum of ten frames per second. The surveillance system storage device must be secured on the licensed premises in a lockbox, cabinet, closet, or secured in another manner to protect from employee tampering or criminal theft. All surveillance recordings must be kept for a minimum of forty-five days on the licensee's recording device. All videos are subject to inspection by any WSLCB employee or law enforcement officer, and must be copied and provided to the WSLCB or law enforcement officer upon request. All recorded images must clearly and accurately display the time and date. Time is to be measured in accordance with the U.S. National Institute Standards and Technology standards. ~~((a))~~ Controlled areas include:

~~((i))~~ (a) Any area within an indoor, greenhouse or outdoor room or area where marijuana is grown, or marijuana or marijuana waste is

being moved within, processed, stored, or destroyed. Rooms or areas where marijuana or marijuana waste is never present are not considered control areas and do not require camera coverage.

~~((i))~~ (b) All point-of-sale (POS) areas.

~~((ii))~~ (c) Twenty feet of the exterior of the perimeter of all required fencing and gates enclosing an outdoor grow operation. Any gate or other entry point that is part of the required enclosure for an outdoor growing operation must be lighted in low-light conditions. A motion detection lighting system may be employed to light the gate area in low-light conditions.

~~((iii))~~ (d) Any room or area storing a surveillance system storage device.

~~((b))~~ All marijuana, marijuana concentrates, or marijuana-infused products that are intended to be removed or transported between two licensed premises shall be staged in an area known as the "quarantine" location for a minimum of twenty-four hours. Transport manifest with product information and weights must be affixed to the product. At no time during the quarantine period can the product be handled or moved under any circumstances and is subject to auditing by the WSLCB or designees.)

(4) **Traceability:** To prevent diversion and to promote public safety, marijuana licensees must track marijuana from seed to sale. Licensees must provide the required information on a system specified by the WSLCB. All costs related to the reporting requirements are borne by the licensee. Marijuana seedlings, clones, plants, lots of ~~((usable))~~ useable marijuana or trim, leaves, and other plant matter, batches of extracts, marijuana-infused products, samples, and marijuana waste must be traceable from production through processing, and finally into the retail environment including being able to identify which lot was used as base material to create each batch of extracts or infused products. The following information is required and must be kept completely up-to-date in a system specified by the WSLCB:

(a) Key notification of "events," such as when a plant enters the system (moved from the seedling or clone area to the vegetation production area at a young age);

(b) When plants are to be partially or fully harvested or destroyed;

(c) When a lot or batch of marijuana, marijuana extract, marijuana concentrates, marijuana-infused product, or marijuana waste is to be destroyed;

(d) When ~~((usable))~~ useable marijuana, marijuana concentrates, or marijuana-infused products are transported;

(e) Any theft of ~~((usable))~~ useable marijuana, marijuana seedlings, clones, plants, trim or other plant material, extract, infused product, seed, plant tissue or other item containing marijuana;

~~(f) ((There is a seventy-two hour mandatory waiting period after the notification described in this subsection is given before any plant may be destroyed, a lot or batch of marijuana, marijuana extract, marijuana-infused product, or marijuana waste may be destroyed;~~

~~(g) There is a twenty-four hour mandatory waiting period after the notification described in this subsection to allow for inspection before marijuana plants, seeds, plant tissue cultures, or lots of marijuana are transported from a producer to another producer or to a processor;~~

~~(h) There is a twenty-four hour mandatory waiting period after the notification described in this subsection to allow for inspection before usable marijuana, marijuana concentrates, or marijuana-infused~~

~~products are transported from a processor to another processor or to a retailer;~~

~~((i))~~ All marijuana plants eight or more inches in height or width must be physically tagged and tracked individually;

~~((j))~~ (g) A complete inventory of all marijuana, seeds, plant tissue, seedlings, clones, all plants, lots of ~~((usable))~~ useable marijuana or trim, leaves, and other plant matter, batches of extract, marijuana concentrates, marijuana-infused products, and marijuana waste;

~~((k))~~ (h) All marijuana, ~~((usable))~~ useable marijuana, marijuana-infused products, marijuana concentrates, seeds, plant tissue, clone lots, and marijuana waste must be physically tagged with the ~~((sixteen digit identification number))~~ unique identifier generated by the traceability system and tracked;

~~((l))~~ (i) All point-of-sale records;

~~((m))~~ (j) Marijuana excise tax records;

~~((n))~~ (k) All samples sent to an independent testing lab, any sample of unused portion of a sample returned to a licensee, and the quality assurance test results;

~~((o))~~ (l) All ~~((free))~~ vendor samples provided to another licensee for purposes of education or negotiating a sale;

~~((p))~~ (m) All samples used for testing for quality by the producer or processor;

~~((q))~~ (n) Samples containing ~~((usable))~~ useable marijuana provided to retailers;

~~((r))~~ (o) Samples provided to the WSLCB or their designee for quality assurance compliance checks; and

~~((s))~~ (p) Other information specified by the board.

~~((5) **Start-up inventory for marijuana producers.** Within fifteen days of starting production operations a producer must have all non-flowering marijuana plants, clones, seeds, and plant tissue cultures physically on the licensed premises. The producer must, within twenty-four hours, record each marijuana plant that enters the facility in the traceability system during this fifteen day time frame. No flowering marijuana plants may be brought into the facility during this fifteen day time frame. After this fifteen day time frame expires, a producer may only start plants from seed or create clones from a marijuana plant located physically on their licensed premises, or purchase marijuana seeds, clones, or plants from another licensed producer.))~~

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-084 ((Production of)) Marijuana plant production.

(1) Only the following specified soil amendments, fertilizers, other crop production aids, and pesticides may be used in the production of marijuana:

(a) Pesticides registered by WSDA under chapter 15.58 RCW as allowed for use in the production, processing, and handling of marijuana. Pesticides must be used consistent with the label requirements.

(b) Commercial fertilizers registered by WSDA under chapter 15.54 RCW.

(c) Potting soil, crop production aids, soil amendments, and other growing media available commercially in the state of Washington may

be used in marijuana production. Producers growing outdoors are not required to meet land eligibility requirements outlined in 7 C.F.R. Part 205.202.

(2) Examples of prohibited products:

(a) The use of products containing plant growth regulators not allowed for use on food crops including, but not limited to, any of the following ingredients, is prohibited:

- ((+)) (i) Ancyamidol;
- ((+)) (ii) Chlormequat chloride;
- ((+)) (iii) Clofencet;
- ((+)) (iv) Colchicine;
- ((+)) (v) Colloidal silver;
- ((+)) (vi) Daminozide;
- ((+)) (vii) Dikegulac-sodium;
- ((+)) (viii) Flumetralin;
- ((+)) (ix) Flurprimidol; and
- ((+)) (x) Paclobutrazol.

(b) The use of vitamin-hormone products not intended for use on food crops is prohibited.

(c) The use of products containing the insecticide DDVP (Dichlorvos) is prohibited in all areas where marijuana is being grown or processed.

(3) Soil amendments, fertilizers, growing media, other crop production aids, and pesticides that do not conform to subsections (1) and (2) of this section cannot be used, kept, or stored on the licensed premises.

(4) The following marijuana and marijuana products are subject to seizure and destruction:

(a) Marijuana exposed to unauthorized soil amendments or fertilizers; and

(b) Marijuana with ~~((detectable))~~ levels of unauthorized pesticides or plant growth regulators as provided in WAC 314-55-108.

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-087 ~~((What are the))~~ Recordkeeping requirements for marijuana licensees((?)). (1) Marijuana licensees are responsible to keep records that clearly reflect all financial transactions and the financial condition of the business. The following records must be kept and maintained on the licensed premises for a ~~((three-year))~~ five-year period and must be made available for inspection if requested by an employee of the WSLCB:

(a) Purchase invoices and supporting documents, to include the items and/or services purchased, from whom the items were purchased, and the date of purchase;

(b) Bank statements and canceled checks for any accounts relating to the licensed business;

(c) Accounting and tax records related to the licensed business and each true party of interest;

(d) Records of all financial transactions related to the licensed business, including contracts and/or agreements for services performed or received that relate to the licensed business;

(e) All employee records to include, but not limited to, training, payroll, and date of hire;

(f) Records of each daily application of pesticides applied to the marijuana plants or growing medium. For each application, the producer shall record the following information on the same day the application is made:

(i) Full name of each employee who applied the pesticide;

(ii) The date the pesticide was applied;

(iii) The name of the pesticide or product name listed on the registration label which was applied;

(iv) The concentration and total amount of pesticide per plant; and

(v) For outdoor production, the concentration of pesticide that was applied to the field. Liquid applications may be recorded as, but are not limited to, amount of product per one hundred gallons of liquid spray, gallons per acre of output volume, ppm, percent product in tank mix (e.g., one percent). For chemigation applications, record "inches of water applied" or other appropriate measure.

(g) Soil amendment, fertilizers, or other crop production aids applied to the growing medium or used in the process of growing marijuana;

(h) Production and processing records, including harvest and curing, weighing, destruction of marijuana, creating batches of marijuana-infused products and packaging into lots and units;

(i) Records of each batch of extracts or infused marijuana products made, including at a minimum, the lots of (~~usable~~) useable marijuana or trim, leaves, and other plant matter used (including the total weight of the base product used), any solvents or other compounds utilized, and the product type and the total weight of the end product produced, such as hash oil, shatter, tincture, infused dairy butter, etc.;

(j) Transportation records as described in WAC 314-55-085;

(k) Inventory records;

(l) All samples sent to an independent testing lab and the quality assurance test results;

(m) All free samples provided to another licensee for purposes of negotiating a sale;

(n) All samples used for testing for quality by the producer or processor;

(o) Sample jars containing (~~usable~~) useable marijuana provided to retailers; and

(p) Records of any theft of marijuana seedlings, clones, plants, trim or other plant material, extract, marijuana-infused product, or other item containing marijuana.

(q) Records of any marijuana product provided free of charge to qualifying patients or designated providers.

(2) If the marijuana licensee keeps records within an automated data processing (ADP) and/or point-of-sale (POS) system, the system must include a method for producing legible records that will provide the same information required of that type of record within this section. The ADP and/or POS system is acceptable if it complies with the following guidelines:

(a) Provides an audit trail so that details (invoices and vouchers) underlying the summary accounting data may be identified and made available upon request.

(b) Provides the opportunity to trace any transaction back to the original source or forward to a final total. If printouts of transac-

tions are not made when they are processed, the system must have the ability to reconstruct these transactions.

(c) Has available a full description of the ADP and/or POS portion of the accounting system. This should show the applications being performed, the procedures employed in each application, and the controls used to ensure accurate and reliable processing.

(3) The provisions contained in subsections (1) and (2) of this section do not eliminate the requirement to maintain source documents, but they do allow the source documents to be maintained in some other location.

AMENDATORY SECTION (Amending WSR 16-19-002, filed 9/7/16, effective 10/8/16)

WAC 314-55-089 ((What are the)) Tax and reporting requirements for marijuana licensees((?)). (1) ~~((Marijuana producer and marijuana processor licensees must submit monthly report(s) to the WSLCB.))~~ Marijuana retailer licensees must submit monthly report(s) and payments to the WSLCB. The required monthly reports must be:

(a) On a form or electronic system designated by the WSLCB;

(b) Filed every month, including months with no activity or payment due;

(c) Submitted, with payment due, to the WSLCB on or before the twentieth day of each month, for the previous month. (For example, a report listing transactions for the month of January is due by February 20th.) When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day;

(d) Filed separately for each marijuana license held; and

(e) All records must be maintained and available for review for a three-year period on licensed premises (see WAC 314-55-087).

(2) **Marijuana producer licensees:** On a monthly basis, marijuana producers must maintain records and report purchases from other licensed marijuana producers, current production and inventory on hand, sales by product type, and lost and destroyed product in a manner prescribed by the WSLCB. The act of keeping data completely up-to-date in the state traceability system fulfills the monthly reporting requirement.

(3) **Marijuana processor licensees:** On a monthly basis, marijuana processors must maintain records and report purchases from licensed marijuana producers, other marijuana processors, production of marijuana-infused products, sales by product type to marijuana retailers, and lost and/or destroyed product in a manner prescribed by the WSLCB. The act of keeping data completely up-to-date in the state traceability system fulfills the monthly reporting requirement.

(4) **Marijuana retailer's licensees:**

(a) On a monthly basis, marijuana retailers must maintain records and report purchases from licensed marijuana processors, sales by product type to consumers, and lost and/or destroyed product in a manner prescribed by the WSLCB.

(b) A marijuana retailer licensee must collect from the buyer and remit to the WSLCB a marijuana excise tax of thirty-seven percent of the selling price on each retail sale of ~~((usable))~~ useable marijuana, marijuana concentrates, and marijuana-infused products.

(c) Product inventory reductions that are not adequately documented will be deemed to be sales and will be assessed the excise tax.

(d) Excise tax collected in error must either be returned to the customer(s) or remitted to the WSLCB if returning to the customer(s) is not possible.

(5) **Payment methods:** Marijuana excise tax payments are payable only by check, cashier's check, money order, or electronic payment or electronic funds transfer. Licensees must submit marijuana excise tax payments to the board by one of the following means:

(a) By mail to WSLCB, Attention: Accounts Receivable, P.O. Box 43085, Olympia, WA 98504;

(b) By paying through online access through the WSLCB traceability system; or

(c) By paying using a money transmitter licensed pursuant to chapter 19.230 RCW. If a licensee uses a money transmitter service, the licensee must remit payments in U.S. dollars.

(6) Payments transmitted to the board electronically under this section will be deemed received when received by the WSLCB's receiving account. All other payments transmitted to the WSLCB under this section by United States mail will be deemed received on the date shown by the post office cancellation mark stamped on the envelope containing the payment.

(7) The WSLCB may waive the means of payment requirements as provided in subsection (5) of this section for any licensee for good cause shown. For the purposes of this section, "good cause" means the inability of a licensee to comply with the payment requirements of this section because:

(a) The licensee demonstrates it does not have and cannot obtain a bank or credit union account or another means by which to comply with the requirements of subsection (5) of this section and cannot obtain a cashier's check or money order; or

(b) Some other circumstance or condition exists that, in the WSLCB's judgment, prevents the licensee from complying with the requirements of subsection (5) of this section.

(8) If a licensee tenders payment of the marijuana excise tax in cash without applying for and receiving a waiver or after denial of a waiver, the licensee may be assessed a ten percent penalty.

(9) If a licensee is denied a waiver and requests an adjudicative proceeding to contest the denial, a brief adjudicative proceeding will be conducted as provided under RCW 34.05.482 through 34.05.494.

(10) For the purposes of this section, "electronic payment" or "electronic funds transfer" means any transfer of funds, other than a transaction originated or accomplished by conventional check, drafts, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit a checking or other deposit account. "Electronic funds transfer" includes payments made by electronic check (e-check).

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-092 ((What if a marijuana licensee fails to report or pay, or reports or pays late?)) Failure to pay excise taxes and late

payment of excise taxes. (1) If a marijuana licensee does not submit its ~~((monthly reports and/or))~~ payment(s) to the WSLCB as required in WAC 314-55-089: The licensee is subject to penalties.

Penalties: A penalty of two percent per month will be assessed on the outstanding balance for any payments postmarked after the twentieth day of the month following the month of sale. When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day. Absent a postmark, the date received at the WSLCB or authorized designee, will be used to assess the penalty of two percent per month on ~~((payments received))~~ the outstanding balance after the twentieth day of the month following the month of sale.

(2) Failure to make a report and/or pay the license taxes and/or penalties in the manner and dates outlined in WAC 314-55-089 will be sufficient grounds for the WSLCB to suspend or revoke a marijuana license.

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-095 Marijuana servings and transaction limitations.

Personal possession limits and transaction limits are detailed in RCW 69.50.360 and 69.50.4013.

(1) For persons age twenty-one and older and qualifying patients or designated providers who are not entered into the medical marijuana authorization database, marijuana serving and transaction limitations are as follows:

(a) **Single serving.** A single serving of a marijuana-infused product must not exceed ten milligrams active tetrahydrocannabinol (THC), or Delta 9.

(b) **Maximum number of servings.** The maximum number of servings in any one single unit of marijuana-infused product meant to be eaten or swallowed or otherwise taken into the body is ten servings or one hundred milligrams of active THC, or Delta 9. A single unit of marijuana concentrate cannot exceed one gram.

(c) **Transaction ~~((limitation))~~ limits.**

(i) A single transaction is limited to:

(A) One ounce of ~~((usable))~~ useable marijuana ~~((τ))~~;

(B) Sixteen ounces of marijuana-infused product meant to be eaten or swallowed in solid form ~~((τ))~~;

(C) Seven grams of marijuana-infused extract or marijuana concentrate for inhalation ~~((τ))~~; and

(D) Seventy-two ounces of marijuana-infused product in liquid form ~~((meant to be eaten or swallowed))~~ for oral ingestion or applied topically to the skin; and

(E) Ten units of a marijuana-infused product otherwise taken into the body.

(ii) A licensee or employee of a licensee is prohibited from conducting a transaction that facilitates an individual in obtaining more than the personal possession amount.

(2) For qualifying patients and designated providers who are entered into the medical marijuana authorization database, serving and transaction limits are as follows:

(a) **Single serving.** Except as provided in chapter 246-70 WAC, a single serving of a marijuana-infused product must not exceed ten milligrams active tetrahydrocannabinol (THC), or Delta 9.

(b) **Maximum number of servings.** Except as provided in chapter 246-70 WAC, the maximum number of servings in any one single unit of marijuana-infused product meant to be eaten, swallowed or applied is ten servings or one hundred milligrams of active THC, or Delta 9. A single unit of marijuana concentrate cannot exceed one gram.

(c) **Transaction limitation.** A single transaction by a retail store with a medical marijuana endorsement to a qualifying patient or designated provider who is entered into the medical marijuana database is limited to three ounces of ~~((usable))~~ useable marijuana, forty-eight ounces of marijuana-infused product meant to be eaten or swallowed in solid form, twenty-one grams of marijuana-infused extract or marijuana concentrate for inhalation, and two hundred sixteen ounces of marijuana-infused product in liquid form meant to be eaten or swallowed.

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-096 Vendor, educational, and internal quality control samples. (1) **Vendor samples:** Producers or processors may provide free samples of ~~((usable))~~ useable marijuana, marijuana-infused products, and marijuana concentrates ~~((in order))~~ to negotiate a sale on product the retail licensee does not currently carry. All vendor sample limits are based on calendar months. The producer or processor must record the amount of each vendor sample and the processor or retailer receiving the sample in the traceability system. The outgoing sample must be clearly labeled as a "vendor sample" to negotiate a sale and recorded on a transport manifest. The receiving licensee must receive the vendor sample in the traceability system prior to sampling.

(a) Vendor samples may only be given to and used by licensees or employees of licensees who have product ordering authority or employees who provide input on product to licensees or employees of licensees who have purchasing authority to inform purchasing decisions as detailed in a written business policy.

(b) Producers may not provide any one licensed processor more than eight grams of marijuana flower per month free of charge for the purpose of negotiating a sale.

~~((b))~~ (c) Processors may not provide any one licensed retailer more than eight grams of ~~((usable))~~ useable marijuana per month free of charge for the purpose of negotiating a sale.

~~((e))~~ (d) Processors may not provide any one licensed retailer more than eight units of marijuana-infused products in solid form meant to be ingested orally or otherwise taken into the body per month free of charge for the purpose of negotiating a sale. No single ~~((sample))~~ unit may exceed 10 mg of THC.

~~((d))~~ (e) Processors may not provide any one licensed retailer more than eight units of marijuana-infused product in liquid form meant to be eaten, swallowed, or otherwise taken into the body per month free of charge for the purpose of negotiating a sale. No single ~~((sample))~~ unit may exceed 10 mg of THC.

~~((e))~~ (f) Processors may not provide any one licensed retailer more than eight units of marijuana-infused products meant to be applied topically per month free of charge for the purpose of negotiating a sale.

(g) Processors may not provide any one licensed retailer more than two units of marijuana-infused extract meant for inhalation or infused marijuana mix per month free of charge for the purpose of negotiating a sale. No single ~~((sample))~~ unit may exceed 0.5 g.

~~((f))~~ (h) A marijuana producer must make quality assurance test results available to any processor receiving samples to negotiate a sale. The producer must also provide a statement that discloses all pesticides applied to the marijuana plants and growing medium during production.

~~((g))~~ (i) A marijuana processor must make quality assurance test results available to any retailer receiving samples to negotiate a sale. If a marijuana extract was added to the product, the processors must disclose the type of extraction process and any solvent, gas, or other chemical used in the extraction process, or any other compound added to the extract.

~~((2))~~ (j) **Vendor sample labeling:** All vendor samples must be clearly labeled as a vendor sample and meet all labeling requirements of the product to be sampled.

~~((a) Sixteen digit identification))~~ (i) The unique identifier number generated by the traceability system;

~~((b))~~ (ii) The UBI number of the licensed entity providing the sample; and

~~((e))~~ (iii) Weight of the product in ounces and grams or volume as applicable.

~~((3))~~ (2) **Education sampling.** Processors may provide free samples of ~~((usable))~~ useable marijuana, marijuana-infused products, and marijuana concentrates to retail licensees to give to ~~((their budtender))~~ the licensee's employees for educational purposes. Products being sampled must be carried by the licensed retailer. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system. The outgoing sample must be clearly labeled as "~~((budtender))~~ education sample" and recorded on a transport manifest. Once the retailer receives the sample, the retailer must accept the sample in the traceability system prior to distributing samples to the retailer's employees. All ~~((budtender))~~ employees at a licensed retail location who receive educational samples must be entered into the traceability system for the purpose of distributing education samples. ~~((Prior to sampling the receiving retailer must accept the sample in the traceability system, and distribute the education sample to the retail employee.~~

~~((a) All education samples are limited to a total of ten units per budtender employee per month, with a maximum of one hundred units per retail location))~~

(a) Retailers are restricted to receiving a maximum of one hundred sample units per calendar month. No more than ten sample units may be provided to any one employee per calendar month.

(b) The maximum size of education samples ~~((for education))~~ are:

(i) ~~((Usable))~~ Useable marijuana, marijuana mix, and infused marijuana mix - One unit not to exceed ~~((.5 g))~~ 0.5 g.

(ii) Marijuana infused solid or liquid product meant to be ~~((eat-en or swallowed))~~ ingested orally or otherwise taken into the body - One unit not to exceed 10 mg THC.

(iii) Marijuana-infused extract for inhalation - One unit not to exceed ~~((.25-g))~~ 0.25 g.

(iv) Marijuana-infused products for topical application - One unit not to exceed sixteen ounces.

~~(c) ((Products being sampled must be carried by the licensed retail premises.~~

~~(d))~~ Distribution and consumption of all educational samples is limited to retail employees who directly sell product to retail customers. Retail employees who are not involved in direct sales to customers are not eligible for education samples.

(d) Marijuana retail licensees are prohibited from providing educational samples to their employees as a form of compensation.

(e) A marijuana processor must make quality assurance test results available to any retailer receiving education samples. If a marijuana extract was added to the product, the processors must disclose the type of extraction process and any solvent, gas, or other chemical used in the extraction process, or any other compound added to the extract.

(f) **Education sample labeling:** All education samples must be clearly labeled ~~((as "budtender" samples))~~ "education sample" and include the following information on the label:

(i) ~~((Sixteen digit identification))~~ The unique identifier number generated by the traceability system;

(ii) The UBI number and trade name of the licensed entity providing the sample;

(iii) Product name or strain name for ~~((usable))~~ useable marijuana;

(iv) Weight of the product in ounces and grams or volume as applicable; and

(v) Potency labeled as required under WAC 314-55-105.

~~((4))~~ (3) A marijuana processor is not required to provide free samples to negotiate a sale or educational samples to a marijuana retail licensee, and a marijuana retail licensee may not require a marijuana processor to provide free sample to negotiate a sale or educational samples as a condition for purchasing the marijuana processor's products.

~~((5) Marijuana retail licensees may not provide educational samples to their budtender employees as a form of compensation.~~

~~(6))~~ (4) Internal quality control sampling: Producers and processors may conduct limited self-sampling for quality control. All sample limits are based on calendar months. ~~((Sampling))~~ Consuming samples for quality control may not take place at a licensed premises. Only the producer, processor, or employees of the licensee may sample the marijuana flower, ~~((usable))~~ useable marijuana, marijuana-infused products, marijuana concentrates, and edible marijuana-infused product. The producer or processor must record the amount of each sample and the employee(s) conducting the sampling in the traceability system.

(a) Producers may sample two grams of marijuana flower per strain, per month for quality sampling.

(b) Processors may sample one unit per batch of a new ~~((edible))~~ marijuana-infused product meant to be ~~((eaten or swallowed))~~ ingested orally or otherwise taken into the body to be offered for sale on the market.

(c) Processors may sample up to one unit per batch of a new marijuana-infused extract for inhalation to be offered for sale on the market. No single sample may exceed 0.5 g.

(d) Processors may sample one unit per batch of a new marijuana mix packaged to be offered for sale on the market. No single sample may exceed 1 g.

(e) Processors may sample one unit per batch of a new infused marijuana mix to be offered for sale on the market. No sample may exceed 0.5 g.

~~((7))~~ (f) Processors may sample one unit per batch of a new marijuana-infused product for topical application to be offered for sale on the market. No sample may exceed sixteen ounces.

(5) Retailers may not provide free samples to customers.

~~((8))~~ (6) Sample jars:

~~((a))~~ (a) A processor may provide a retailer free samples of ~~((usable))~~ useable marijuana packaged in a sample jar protected by a plastic or metal mesh screen to allow customers to smell the product before purchase. The sample jar may not contain more than three and one-half grams of ~~((usable))~~ useable marijuana. The plastic or metal mesh screen must be sealed onto the container, and must be free of rips, tears, or holes greater than 2 mm in diameter. The sample jar and the ~~((usable))~~ useable marijuana within may not be sold to a customer and must be returned to the licensed processor who provided the ~~((usable))~~ useable marijuana and sample jar.

~~((9))~~ (b) Sample jar labeling: All ~~((vendor samples and))~~ sample jars must be labeled with the following:

~~((a) Sixteen digit identification))~~ (i) The unique identifier number ~~((given))~~ generated by the traceability system;

~~((b))~~ (ii) Information identifying whether it is a vendor sample or sample jar;

~~((c))~~ (iii) The UBI number of the licensed entity providing the sample; and

~~((d))~~ (iv) Weight of the product in ounces and grams or volume as applicable.

~~((10))~~ (c) A marijuana processor must make quality assurance test results available to any retailer receiving sample jars. The processor must also provide a statement that discloses all pesticides applied to the marijuana plants and growing medium during production.

(d) If a marijuana extract was added to the product, the processor must disclose to the retailer the type of extraction process and any solvent, gas, or other chemical used in the extraction process, or any other compound added to the extract.

~~((11))~~ (7) **Transportation.** Outgoing and return vendor samples and sample jars must adhere to the transportation requirements in WAC 314-55-085.

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-097 Marijuana waste disposal—Liquids and solids.

(1) Solid and liquid wastes generated during marijuana production and processing must be stored, managed, and disposed of in accordance with applicable state and local laws and regulations.

(2) Wastewater generated during marijuana production and processing must be disposed of in compliance with applicable state and local laws and regulations.

(3) Wastes from the production and processing of marijuana plants must be evaluated against the state's dangerous waste regulations (chapter 173-303 WAC) to determine if those wastes designate as dangerous waste. It is the responsibility of each waste generator to properly evaluate their waste to determine if it is designated as a dangerous waste. If a generator's waste does designate as a dangerous waste, then that waste(s) is subject to the applicable management standards found in chapter 173-303 WAC.

(a) Wastes that must be evaluated against the dangerous waste regulations include, but are not limited to, the following:

(i) Waste from marijuana flowers, trim and solid plant material used to create an extract (per WAC 314-55-104).

(ii) Waste solvents used in the marijuana process (per WAC 314-55-104).

(iii) Discarded plant waste, spent solvents and laboratory wastes from any marijuana processing or quality assurance testing.

(iv) Marijuana extract that fails to meet quality testing.

(b) Marijuana wastes that do not designate as dangerous shall be managed in accordance with subsection (4) of this section.

(c) A marijuana plant, (~~usable~~) useable marijuana, trim and other plant material in itself is not considered dangerous waste as defined under chapter 173-303 WAC unless it has been treated or contaminated with a solvent.

(4) Marijuana waste that does not designate as dangerous waste (per subsection (3) of this section) must be rendered (~~unusable~~) unuseable following the methods in subsection (5) of this section prior to leaving a licensed producer, processor, or laboratory. Disposal of the marijuana waste rendered (~~unusable~~) unuseable must follow the methods under subsection (6) of this section.

(~~(a)~~) Wastes that must be rendered (~~unusable~~) unuseable prior to disposal include, but are not limited to, the following:

(~~(i)~~) (a) Waste evaluated per subsection (3) of this section and determined to not designate as "Dangerous Waste."

(~~(ii)~~) (b) Marijuana plant waste, including roots, stalks, leaves, and stems that have not been processed with solvent.

(~~(iii)~~) (c) Solid marijuana sample plant waste possessed by third-party laboratories accredited by the WSLCB to test for quality assurance that must be disposed of.

(~~(iv)~~) (d) Other wastes as determined by the WSLCB.

(~~(b)~~) A producer or processor must provide the WSLCB a minimum of seventy-two hours notice in the traceability system described in WAC 314-55-083(4) prior to rendering the product unusable and disposing of it.)

(5) The allowable method to render marijuana plant waste (~~unusable~~) unuseable is by grinding and incorporating the marijuana plant waste with other ground materials so the resulting mixture is at least fifty percent nonmarijuana waste by volume. Other methods to render marijuana waste (~~unusable~~) unuseable must be approved by the WSLCB before implementation.

Material used to grind with the marijuana falls into two categories: Compostable waste and noncompostable waste.

(a) Compostable mixed waste: Marijuana waste to be disposed as compost feedstock or in another organic waste method (for example, anaerobic digester) may be mixed with the following types of waste materials:

(i) Food waste;

(ii) Yard waste;

- (iii) Vegetable based grease or oils; or
- (iv) Other wastes as approved by the WSLCB.

(b) Noncompostable mixed waste: Marijuana waste to be disposed in a landfill or another disposal method (for example, incinerator) may be mixed with the following types of waste materials:

- (i) Paper waste;
- (ii) Cardboard waste;
- (iii) Plastic waste;
- (iv) Soil; or
- (v) Other wastes as approved by the WSLCB.

(6) Marijuana wastes rendered ((~~unusable~~)) unuseable following the method described in subsection (4) of this section can be disposed.

(a) Disposal of the marijuana waste rendered ((~~unusable~~)) unuseable may be delivered to a permitted solid waste facility for final disposition. Examples of acceptable permitted solid waste facilities include:

(i) Compostable mixed waste: Compost, anaerobic digester, or other facility with approval of the jurisdictional health department.

(ii) Noncompostable mixed waste: Landfill, incinerator, or other facility with approval of the jurisdictional health department.

(b) Disposal of the marijuana waste rendered ((~~unusable~~)) unuseable may be managed on-site by the generator in accordance with the standards of chapter 173-350 WAC.

(c) A record of the final destination of marijuana waste rendered ((~~unusable~~)) unuseable.

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-104 Marijuana processor license extraction requirements. (1) Processors are limited to ((~~certain~~)) the methods, equipment, solvents, gases, and mediums detailed in this section when creating marijuana extracts.

(2) Processors may use the hydrocarbons N-butane, isobutane, propane, or heptane ((~~or other solvents or gases exhibiting low to minimal potential human health-related toxicity approved by the WSLCB~~)). These solvents must be of at least ninety-nine percent purity and a processor must use them in a professional grade closed loop extraction system designed to recover the solvents, work in an environment with proper ventilation, controlling all sources of ignition where a flammable atmosphere is or may be present.

(3) Processors may use a professional grade closed loop CO₂ gas extraction system where every vessel is rated to a minimum of six hundred pounds per square inch. The CO₂ must be of at least ninety-nine percent purity.

(4) Closed loop systems for hydrocarbon or CO₂ extraction systems must be commercially manufactured and bear a permanently affixed and visible serial number.

(5) Certification from a licensed engineer must be provided to the WSLCB for professional grade closed loop systems used by processors to certify that the system was commercially manufactured, safe for

its intended use, and built to codes of recognized and generally accepted good engineering practices, such as:

- (a) The American Society of Mechanical Engineers (ASME);
- (b) American National Standards Institute (ANSI);
- (c) Underwriters Laboratories (UL); or
- (d) The American Society for Testing and Materials (ASTM).

(6) The certification document must contain the signature and stamp of a professional engineer and the serial number of the extraction unit being certified.

(7) Professional grade closed loop systems, and other equipment used must be approved for specific use or the technical report must be approved by the state building code officials prior to use per WAC 51-54A-3800.

(8) Professional closed loop systems, other equipment used, the extraction operation, and facilities must be approved for their use by the local fire code official and meet any required fire, safety, and building code requirements specified in:

- (a) Title 296 WAC;
- (b) Chapters 51-51 and 51-54A WAC;
- (c) National Fire Protection Association (NFPA) standards;
- (d) International Building Code (IBC);
- (e) International Fire Code (IFC); and

(f) Other applicable standards including following all applicable fire, safety, and building codes in processing and the handling and storage of the solvent or gas.

~~((+8))~~ (9) Processors may use heat, screens, presses, steam distillation, ice water, and other methods without employing solvents or gases to create kief, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.

~~((+9))~~ (10) Under WAC 314-55-077, infused dairy butter and oils or fats derived from natural sources may be used to prepare infused edible products, but they may not be prepared as stand-alone edible products for sale.

~~((+10))~~ (11) Processors may use food grade glycerin, ethanol, and propylene glycol solvents to create extracts. All ethanol must be removed from the extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.

~~((+11))~~ (12) Processors creating marijuana extracts must develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace. Any person using solvents or gases in a closed looped system to create marijuana extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets and handle and store the solvents and gases safely.

~~((+12))~~ (13) Parts per million for one gram of finished extract cannot exceed ~~((500 parts per million or))~~ residual solvent or gas ~~((when quality assurance tested per RCW 69.50.348))~~ levels provided in WAC 314-55-102.

NEW SECTION

WAC 314-55-117 Use of payment services by retailers. Retail licensees may use payment services to facilitate retail sales transactions under the following conditions:

- (1) The payment service provider must:
- (a) If applicable, be licensed and in good standing with the Washington state department of financial institutions; and
 - (b) Not have any interest, as a true party of interest or financier, in a marijuana licensee.
- (2) The payment service provider may charge a convenience fee to customers provided that the customer has the option of canceling the transaction when informed of the convenience fee.
- (3) The retail purchase price must be calculated in U.S. dollars.
- (4) The marijuana excise tax required under RCW 69.50.535 must be collected from the customer based on the U.S. dollar purchase price.

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-120 Ownership changes. (1) Licensees must receive prior board approval before making any of the following ownership changes (see WAC 314-55-035 for the definition of "true party of interest"):

Type of change	Type of application	Fee
Change in the ((qualifying persons)) <u>true parties of interest or owners</u> in a: Sole proprietorship, general partnership, limited partnership, or limited liability partnership.	New application.	Application fee and annual fee for current license privilege.
Change in the ((qualifying persons)) <u>true parties of interest or owners</u> for a publicly or privately held corporation. The board will waive the fee for a corporate change when the proposed change consists solely of dropping an approved officer.	Application for change in corporate officer and/or stockholder.	\$75
Change in the ((qualifying persons)) <u>true parties of interest or owners</u> in a limited liability company.	Application for change of limited liability company member and/or manager.	\$75
Accepting additional funds from a new or previously approved financier.	Added financier.	\$75

(2) Licensees must notify the WSLCB if there are any changes to marital status of any true party of interest in the license.

(3) The WSLCB may inquire into all matters in connection with any such sale of stock/units or proposed change in officers/members.

(4) If the WSLCB receives an application to change the ownership structure of a licensee, the application will be withdrawn unless one or more of the following is submitted:

(a) Proof that the party being removed was notified that they were being removed and they did not object within ninety days;

(b) Signed documentation from the true party of interest being removed for the licensed entity that they agree with the removal; or

(c) A final court document removing them.

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

WAC 314-55-125 Change of location. (1) Changing ((your)) a marijuana license to a new location requires ((an)) a change request application to the WSLCB, per the process outlined in WAC 314-55-020. WSLCB approval for change request applications must be obtained prior to any change of location of the licensed business.

(2) A change of location occurs any time a move by the licensee results in any change to the physical location address.

NEW SECTION

WAC 314-55-137 Receiverships. (1) **Service and notice.**

(a) Any person who files any receivership or trustee action involving any marijuana licensee must serve WSLCB with original notice of the action. Service is accomplished by delivery of the original notice of action to WSLCB at: 3000 Pacific Avenue S.E., Olympia, WA 98501, or mailed to the WSLCB. Mailed notice must be addressed to: WSLCB, ATTN: Licensing - Receiverships, P.O. Box 43076, Olympia, WA 98504-3076 or, for certified mail, WSLCB, ATTN: Licensing - Receiverships, 3000 Pacific Avenue S.E., Olympia, WA 98501.

(b) Only if WSLCB receives original notice of the action and the receiver is selected in accordance with WSLCB's requirements will WSLCB treat the licensee as compliant with this section.

(2) **The role of a receiver when a licensee is placed in receivership.** If a marijuana licensee is placed under receivership, the receiver:

(a) Upon compliance with the requirements set forth below, the receiver may operate the licensee's business during the receivership period;

(b) The receiver assumes all licensee reporting responsibilities under this chapter including, but not limited to, full responsibility for maintaining records and entries into the traceability system maintained by the WSLCB; and

(c) The receiver is required to comply with all applicable laws under chapter 69.50 RCW and rules in this chapter including, but not limited to, the responsibilities of marijuana licensees set forth in WAC 314-55-110.

(d) Failure to abide by the requirements set forth in chapter 69.50 RCW and this chapter as specified in this subsection may result in enforcement action against the license under chapter 69.50 RCW and rules under this chapter and may result in the receiver being disqualified to act as a receiver by the WSLCB.

(3) **Who may serve as a receiver.** Any person who meets the requirements of chapter 7.60 RCW and the following additional requirements may serve as a receiver:

(a) Is currently in active status on the preapproved receiver list maintained by the WSLCB; or

(b) Is approved by the WSLCB under the requirements in subsection (5) of this section to serve as a receiver of a marijuana licensee.

(4) **Qualifying for the WSLCB's preapproved receiver list.**

(a) The following requirements must be met to qualify for the WSLCB's preapproved receiver list:

(i) Submit a complete receiver application with the WSLCB;

(ii) Be a Washington state resident for at least six months prior to the application for preapproval as a receiver and maintain residency throughout the term of the receivership;

(iii) Submit to and pass a criminal background check;

(iv) Provide any financial disclosures requested by the WSLCB; and

(v) Disclose any interests the person has in any marijuana licensee(s).

(b) Review and qualification requirements in this subsection only apply to persons or entities actively participating in the management of the receivership and do not apply to spouses of those persons or persons involved in a business entity or fellow members of a business entity that are not actively involved in the management of the receivership.

(c) A receiver placed on the preapproved receiver list maintained by the WSLCB must annually update all information and disclosures required under this subsection to remain eligible to act as a receiver and be on the preapproved receiver list. Annual updates must be made one calendar year after the date the receiver is approved.

(5) **Appointing a receiver who is not preapproved by the WSLCB.**

(a) Within two days of filing of any action to appoint a receiver, a proposed receiver must:

(i) Submit a complete application with the WSLCB to serve as receiver for the licensee;

(ii) Be a Washington resident for six months prior to appointment as a receiver and maintain residency throughout the term of the receivership;

(iii) Submit to and pass a criminal background check;

(iv) Provide any financial disclosures requested by the WSLCB; and

(v) Disclose any interest the proposed receiver has in any marijuana licensee(s).

(b) Review and qualification requirements in this subsection only apply to persons or entities actively participating in the management of the receivership and do not apply to spouses of those persons or persons involved in a business entity or fellow members of a business entity that are not actively involved in the management of the receivership.

(c) If the proposed receiver is denied approval by WSLCB at any time, a substitute receiver may be proposed for WSLCB approval. The

substitute receiver must provide all information required by this subsection.

(d) If the proposed receiver is not approved by WSLCB at the time the receiver is appointed by the court, the receiver will not be considered compliant with this section, and may be subject to penalty under chapter 69.50 RCW, or as provided in this chapter and may result in the receiver being disqualified to act as a receiver by the WSLCB.

(6) Limitations on a person's ability to serve as a receiver.

(a) As operators and controllers of licensed marijuana establishments, receivers are subject to the same limits as licensees or any other person. Those limits include, but are not limited to:

(i) No person serving as a receiver of a licensed marijuana producer or licensed marijuana processor shall have a financial interest in, or simultaneously serve as a receiver for, a licensed marijuana retailer; and

(ii) No person shall serve as a receiver for, or be a true party of interest in, more than five marijuana retail licensees or more than three marijuana producer, processor, or producer/processor licensees at the same time.

(b) If the WSLCB determines that a receiver is violating or has violated the restrictions in this subsection, the receiver may be disqualified to act as a receiver by the WSLCB.

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-140 Death or incapacity of a marijuana licensee. (1)

The appointed guardian, executor, administrator, ~~((receiver,))~~ trustee, or assignee must notify the WSLCB's licensing and regulation division in the event of the death, incapacity, ~~((receivership,))~~ bankruptcy, or assignment for benefit of creditors of any licensee.

(2) The WSLCB may give the appointed guardian, executor, administrator, ~~((receiver,))~~ trustee, or assignee written approval to continue marijuana sales on the licensed business premises for the duration of the existing license and to renew the license when it expires.

(a) The person must be a resident of the state of Washington.

(b) A criminal background check may be required.

(3) When the matter is resolved by the court, the true party(ies) of interest must apply for a marijuana license for the business.

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-185 ~~((Does the))~~ WSLCB ~~((have the))~~ right to inspect ~~((my))~~ premises or vehicles ~~((licensed))~~ associated with a license to produce, process, sell, research, or transport marijuana(?). (1) The following must be available for inspection at all times by an enforcement officer of the WSLCB:

(a) All licensed premises used in the production, processing, storage, transportation, research, or sale of marijuana, ~~((usable))~~ useable marijuana, marijuana concentrates, marijuana-infused products,

or any premises or parts of premises used or in any way connected, physically or otherwise, with the licensed business;

(b) Any vehicle assigned for the purpose of transporting marijuana, ~~((usable))~~ useable marijuana, marijuana concentrates, or marijuana-infused products at any licensed location, or while en route during transportation;

(c) Records as outlined in ~~((WAC 314-55-087 and 314-55-310))~~ this chapter; and

(d) Marijuana, ~~((usable))~~ useable marijuana, marijuana concentrates, or marijuana-infused products on the licensed premises for the purpose of analyzing samples (the licensee will be given a receipt for any product removed from the premises for this purpose).

(2) Every person being on a licensed premises or ~~((with))~~ within a transporting vehicle, or having charge thereof, must admit an enforcement officer of the WSLCB demanding to enter therein in pursuance of this section in the execution of his/her duty, and must not obstruct or attempt to obstruct the entry of such officer, or refuse to allow an officer to examine the premises, vehicles, records, and products subject to this section of the licensee.

AMENDATORY SECTION (Amending WSR 16-19-102, filed 9/21/16, effective 10/22/16)

WAC 314-55-410 Cooperatives. (1) A cooperative may be formed by qualifying patients and/or designated providers to share responsibility for growing and processing marijuana only for the medical use of the members of the cooperative. A cooperative must meet the following criteria:

(a) All cooperative members must be at least twenty-one years of age. The designated provider of a qualifying patient under twenty-one years of age may be a member of a cooperative on the qualifying patient's behalf;

(b) All cooperative members must hold valid recognition cards as defined by RCW 69.51A.010;

(c) No more than four qualifying patients or designated providers may become members of a cooperative;

(d) Qualifying patients or designated providers may only participate in one cooperative;

(e) A cooperative member may only grow plants in the cooperative and may not grow plants elsewhere;

(f) Cooperative members must participate in growing plants. Cooperative members must provide nonmonetary resources and assistance in order to participate. A monetary contribution or donation is not considered assistance;

(g) Cooperative members may grow up to the total amount of plants for which each cooperative member is authorized on his or her recognition card. At the location, the qualifying patients or designated providers may possess the amount of ~~((usable))~~ useable marijuana that can be produced with the number of plants permitted, but no more than seventy-two ounces;

(h) Cooperative members may not sell, donate, or otherwise provide marijuana, marijuana concentrates, ~~((usable))~~ useable marijuana, or other marijuana-infused products to a person who is not a member of the cooperative;

(i) A cooperative may not be located within a one mile radius of a marijuana retailer;

(j) A cooperative must be located ~~((in))~~ at the domicile of one of the cooperative members. Only one cooperative may be located per property tax parcel; and

(k) To obscure public view of the premises, outdoor marijuana production must be enclosed by a sight obscure wall or fence at least eight feet high.

(2) People who wish to form a cooperative must register the location with the WSLCB. The location registered is the only location where cooperative members may grow or process marijuana. The following is required to register a cooperative:

(a) Submit a completed Marijuana Cooperative Registration Form;

(b) Submit copies of each person's recognition card who is seeking to be part of the registered cooperative;

(c) Submit a deed, lease, rental agreement, or other document establishing ownership or control to the property where the cooperative is to be located. If the property is leased or rented, a sworn statement from the property owner granting permission to engage in a cooperative must also be submitted that includes a telephone number and address where the owner can be contacted for verification;

(d) Submit a sketch outlining the location where the marijuana is planned to be grown.

(3) WSLCB will contact the primary contact listed for each registered cooperative on an annual basis to ensure validity of recognition cards and to confirm the status, whether active or inactive, of the cooperative. If the WSLCB finds that the cooperative no longer meets the criteria required under this section, the WSLCB may not renew the cooperative registration.

(4) WSLCB may inspect a cooperative between the hours of 8:00 a.m. and 8:00 p.m. unless otherwise agreed upon by cooperative members and WSLCB staff.

~~((4))~~ (5) If a person or persons seeking to register the cooperative fails to meet the requirements of a registered cooperative as provided in this section, the WSLCB will deny the cooperative registration.

~~((5))~~ (6) If the WSLCB finds a registered cooperative violated the requirements of this section, the WSLCB will revoke the cooperative's registration.

~~((6))~~ (7) A person may request an administrative hearing to contest a denial of registration, nonrenewal, or a revocation of a cooperative's registration under ~~((subsections (4) and (5) of))~~ this section as provided in chapter 34.05 RCW.

~~((7) Cooperative members purchasing plants from licensed producers.~~

~~(a) Members of a cooperative registered by the WSLCB may purchase marijuana plants to be grown in the cooperative from a licensed marijuana producer.~~

~~(b) Members of a cooperative who wish to purchase plants from a licensed producer must:~~

~~(i) Provide proof of identification in the form of a state-issued identification card or other valid government-issued identification, a valid recognition card, and a copy of the letter from the WSLCB confirming the person is a member of a registered cooperative;~~

~~(ii) Contact a licensed producer they wish to purchase from at least twenty-four hours in advance of arriving at the licensed producer's place of business to ensure the producer has plants available for~~

~~sale and to allow for the required waiting period under WAC 314-55-083 to pass prior to physically taking possession of marijuana plants; and~~
~~(iii) Personally go to the licensed producer to complete the purchase and transfer of any marijuana plants purchased.~~

~~(c) The physical transfer of marijuana plants between licensed producers and members of a cooperative must take place on the premises of the licensed producer. Deliveries of marijuana plants by a licensed producer to members of a cooperative are prohibited.))~~

NEW SECTION

WAC 314-55-417 Sales of immature plants or clones and seeds from licensed producers to members of cooperatives, qualifying patients, and designated providers. This section details the requirements for sales of immature plants or clones and seeds by licensed producers to members of a registered cooperative, qualifying patients, and designated providers.

(1) Medical marijuana patients who enter into the medical marijuana authorization database established and maintained by the department of health, receive a recognition card, and are members of a cooperative that has been granted a registration by the Washington state liquor and cannabis board (WSLCB) may purchase immature plants or clones and seeds to be grown in the cooperative from a licensed marijuana producer.

(2) Qualifying patients and designated providers who hold a valid unexpired recognition card and have been entered into the medical marijuana authorization database established and maintained by the department of health, may purchase immature plants or clones and seeds from a licensed marijuana producer.

(3) Members of a registered cooperative, qualifying patients, and designated providers who wish to purchase immature plants or clones and seeds from a licensed producer must:

(a) Personally go to the licensed producer to complete the purchase and transfer of any marijuana plants purchased; and

(b) Provide the following information to a licensed producer:

(i) Proof of identification in the form of a state-issued identification card or other valid government-issued identification;

(ii) A valid recognition card; and

(iii) If the person purchasing immature plants or clones or seeds is a member of a registered cooperative, a copy of the letter from the WSLCB confirming the person is a member of a registered cooperative.

(4) The physical transfer of marijuana plants between licensed producers and members of a cooperative, qualifying patients, or designated providers must take place on the premises of the licensed producer. Deliveries of marijuana plants by a licensed producer to members of a cooperative, qualifying patients, or designated providers are prohibited.

(5) Members of registered cooperatives, qualifying patients, and designated providers are limited to purchasing no more than the maximum amount that the medical marijuana patient's authorization form allows of any combination of immature plants or clones and seeds in a single sale or cumulative sales within a calendar month from a licensed producer. It is the responsibility of the member of the registered cooperative, qualifying patient, or designated provider to en-

sure that they possess no more than the maximum number of plants allowed under their authorization forms and as provided in chapter 69.51A RCW.

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-525 Group 2 regulatory violations. Group 2 violations are violations involving general regulation and administration of retail or nonretail licenses. Group 2 penalties imposed on a producer and/or processor license will not include license suspension. Penalties for a producer and/or processor license will be restricted to monetary fines, destruction of inventory, and/or license cancellation only.

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Hours of service: Sales of marijuana between 12:00 a.m. and 8:00 a.m. Chapter 314-55 WAC	5-day suspension or \$1,000 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
General advertising: Violations Chapter 314-55 WAC	Retailer/transporter: 5-day suspension or \$1,000 monetary option Producer/processor: \$1,000 monetary fine	Retailer/transporter: 10-day suspension or \$2,500 monetary option Producer/processor: Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Retailer/transporter: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine	Cancellation of license
((Advertising violations – Sign exceeding 1,600 square inches; within 1,000 feet of prohibited areas; on or in public transit vehicles, shelters, or publicly owned or operated property. Chapter 69.50 RCW Chapter 314-55 WAC	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine))
Engaging in conditional retail sales. Chapter 314-55 WAC Chapter 69.50 RCW	5-day suspension or \$1,000 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Licensee/employee failing to display required security badge. Chapter 314-55 WAC	Retailer/transporter: 5-day suspension or \$500 monetary option Producer/processor: \$500 monetary fine	Retailer/transporter: 10-day suspension or \$1,500 monetary option Producer/processor: All tiers: \$1,500 monetary fine	Retailer/transporter: 30-day suspension Producer/processor: All tiers: \$5,000 monetary fine	Cancellation of license

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Failure to maintain required security alarm and surveillance systems. Chapter 314-55 WAC	Retailer/transporter: 5-day suspension or \$2,500 monetary option Producer/processor: \$2,500 monetary fine	Retailer/transporter: 10-day suspension or \$5,000 monetary fine Producer/processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Retailer/transporter: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine	Cancellation of license
Records: Improper recordkeeping. Chapter 314-55 WAC	Retailer/transporter: 5-day suspension or \$1,000 monetary option Producer/processor: \$1,000 monetary fine	Retailer/transporter: 10-day suspension or \$2,500 monetary option Producer/processor: Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Retailer/transporter: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine	Cancellation of license
Failure to submit monthly tax((/sales reports and/or)) payments. Chapter 69.50 RCW Chapter 314-55 WAC	Retailer(/transporter): 5-day suspension or \$1,000 monetary option ((Producer/processor: \$1,000 monetary fine))	Retailer: 10-day suspension or \$2,500 monetary option ((Producer/processor: Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine))	Retailer: 30-day suspension ((Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine))	Cancellation of license
Signs: Failure to post required signs. Chapter 69.50 RCW Chapter 314-55 WAC	Retailer/transporter: 5-day suspension or \$500 monetary option Producer/processor: \$500 monetary fine	Retailer/transporter: 10-day suspension or \$1,500 monetary option Producer/processor: All tiers: \$1,500 monetary fine	Retailer/transporter: 15-day suspension or \$5,000 monetary option Producer/processor: All tiers: \$5,000 monetary fine	Cancellation of license
Failure to utilize and/or maintain traceability. Chapter 314-55 WAC	5-day suspension or \$2,500 monetary option Producer/processor: \$2,500 monetary fine	Retailer: 10-day suspension or \$5,000 monetary fine Producer/processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Retailer: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine	Cancellation of license
Violation of transportation requirements. Chapter 314-55 WAC	Retailer: 5-day suspension or \$2,500 monetary option Producer/processor: \$2,500 monetary fine	Retailer: 10-day suspension or \$5,000 monetary fine Producer/processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Retailer: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine	Cancellation of license
Marijuana sold below cost of acquisition, true value, or illegally given away.	Retailer: 5-day suspension or \$1,000 monetary option Producer/processor: \$2,500 monetary fine	Retailer: 10-day suspension or \$5,000 monetary option Producer/processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Retailer: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine	Cancellation of license

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Retail sales: Use of an unauthorized money transmitter. Chapter 314-55 WAC	5-day suspension or \$1,000 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Retail outlet selling unauthorized products. Chapter 69.50 RCW	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
Retailer displaying products in a manner visible to the general public from a public right of way. Chapter 69.50 RCW	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
Retail sales: Unauthorized marijuana-infused products, internet sales, and accepting returns. Chapter 314-55 WAC	5-day suspension or \$1,000 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-530 Group 3 license violations. Group 3 violations are violations involving licensing requirements, license classification, and special restrictions. Group 3 penalties imposed on a producer and/or processor license will not include license suspension. Penalties for a producer and/or processor license will be restricted to monetary fines, destruction of inventory, and/or license cancellation only.

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
True party of interest/financier violation. Chapter 314-55 WAC	Cancellation of license			
Failure to furnish required documents. Chapter 314-55 WAC	Cancellation of license			
Misuse or unauthorized use of marijuana license (operating outside of license class). Chapter 69.50 RCW Chapter 314-55 WAC	Retailer/transporter: 10-day suspension or \$5,000 monetary fine Producer/processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Cancellation of license		
Misrepresentation of fact. Chapter 314-55 WAC	Cancellation of license			

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Unauthorized change of business name. Chapter 314-55 WAC	5-day suspension or \$1,000 monetary option Producer/processor: All tiers: \$500 monetary penalty	10-day suspension or \$1,500 monetary option Producer/processor: All tiers: \$1,500 monetary fine	30-day suspension or \$5,000 monetary option Producer/processor: All tiers: \$5,000 monetary fine	Cancellation of license
Operating/floor plan: Violations of a WSLCB approved operating plan. Chapter 314-55 WAC	5-day suspension or \$1,000 monetary option Producer/processor: All tiers: \$1,000 monetary fine	Retailer/transporter: 10-day suspension or \$2,500 monetary option Producer/processor: Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Retailer/transporter: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine	Cancellation of license
((Failing to gain WSLCB approval for changes in existing ownership. Chapter 69.50 RCW Chapter 314-55 WAC	30-day suspension Producer/processor: \$15,000 monetary fine and destruction of 50% of inventory))			
Failure to respond to administrative violation notice and/or failure to pay fines and penalties. Chapter 314-55 WAC	\$1,000 monetary penalty	Cancellation of license		
Failure to maintain required insurance. Chapter 314-55 WAC	Retailer/transporter: 5-day suspension or \$2,500 monetary fine Producer/processor: Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Retailer/transporter: 30-day suspension or \$15,000 monetary option Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine	Cancellation of license	

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 314-55-081

Who can apply for a marijuana retailer license?

WAC 314-55-082 Insurance requirements. Marijuana licensees ~~((shall provide))~~ must obtain insurance coverage as set out in this section. The intent of the required insurance is to protect the consumer should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the marijuana licensees. Marijuana licensees shall furnish evidence in the form of a certificate of insurance satisfactory to the WSLCB that insurance, in the following kinds and minimum amounts, has been secured. Failure to provide proof of insurance, as required, may result in license cancellation.

(1) Commercial general liability insurance: The licensee shall at all times carry and maintain commercial general liability insurance ~~((and if necessary,))~~ or commercial umbrella insurance for bodily injury and property damage arising out of licensed activities. The limits of liability insurance shall not be less than one million dollars.

(a) This insurance shall cover such claims as may be caused by any act, omission, or negligence of the licensee or its officers, agents, representatives, assigns, or servants.

(b) The insurance shall also cover bodily injury, including disease, illness and death, and property damage arising out of the licensee's premises/operations, products, and personal injury. ~~((The limits of liability insurance shall not be less than one million dollars.))~~

(2) Insurance carrier rating: The insurance required in subsection (1) of this section shall be issued by an insurance company authorized to do business within the state of Washington. Insurance is to be placed with a carrier that has a rating of A - Class VII or better in the most recently published edition of *Best's Reports*. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with chapters 48.15 RCW and 284-15 WAC.

(3) Additional insured. The state and its employees, agents, and volunteers shall be named as an additional insured on ~~((all general liability, umbrella, and excess))~~ insurance policies required under this section. All policies shall be primary over any other valid and collectable insurance.

WAC 314-55-155 Advertising requirements and promotional items—Coupons, giveaways, etc. The following provisions apply in addition to the requirements and restrictions in RCW 69.50.369.

(1) **Advertising generally.** The following requirements apply to all advertising by marijuana licensees in Washington state.

(a) All marijuana advertising and labels of ~~((usable))~~ useable marijuana, marijuana concentrates, and marijuana-infused products sold in the state of Washington must not contain any statement, or illustration that:

(i) Is false or misleading;

(ii) Promotes over consumption;

(iii) Represents the use of marijuana has curative or therapeutic effects;

(iv) Depicts a child or other person under legal age to consume marijuana, or includes:

(A) The use of objects, such as toys, inflatables, movie characters, cartoon characters suggesting the presence of a child, or any other depiction or image designed in any manner to be likely to be appealing to youth or especially appealing to children or other persons under legal age to consume marijuana; or

(B) Is designed in any manner that would be especially appealing to children or other persons under twenty-one years of age.

(b) No marijuana licensee shall place or maintain, or cause to be placed or maintained, an advertisement of a marijuana business or marijuana product, including marijuana concentrates, ~~((usable))~~ useable marijuana, or marijuana-infused product:

(i) In any form or through any medium whatsoever within one thousand feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park, library, or a game arcade admission to which it is not restricted to persons aged twenty-one years or older unless the one thousand minimum distance requirement has been reduced by ordinance in the local jurisdiction where the licensed retailer is located and the licensed retailer is located within one thousand feet of a restricted location listed in this paragraph;

(ii) On or in a private vehicle, public transit vehicle, public transit shelter, bus stop, taxi stand, transportation waiting area, train station, airport, or any similar transit-related location;

(c) All advertising for marijuana businesses or marijuana products, regardless of what medium is used, must contain text stating that marijuana products may be purchased or possessed only by persons twenty-one years of age or older. Examples of language that conforms to this requirement include, but are not limited to: "21+," "for use by persons 21 and over only," etc.

(d) A marijuana licensee may not engage in advertising or marketing that specifically targets persons residing out of the state of Washington.

(2) **Outdoor advertising.** In addition to the requirements for advertising in subsection (1) of this section, the following restrictions and requirements apply to outdoor advertising by marijuana licensees:

(a) Except for the use of billboards as authorized under RCW 69.50.369 and as provided in this section, licensed marijuana retailers may not display any outdoor signage other than two separate signs identifying the retail outlet by the licensee's business name or trade name, stating the location of the business, and identifying the nature of the business. Both signs must be affixed to a building or permanent structure and each sign is limited to sixteen hundred square inches.

(i) All text on outdoor signs, including billboards, is limited to text that identifies the retail outlet by the licensee's business or trade name, states the location of the business, and identifies the type or nature of the business.

(ii) No outdoor advertising signs, including billboards, may contain depictions of marijuana plants or marijuana products. Logos or artwork that do not contain depictions of marijuana plants or marijuana products as defined in this section are permissible.

(A) A depiction of a marijuana plant means an image or visual representation of a cannabis leaf, plant, or the likeness thereof that explicitly suggests or represents a cannabis leaf or plant.

(B) A depiction of a marijuana product means an image or visual representation of ~~((usable))~~ useable marijuana, marijuana-infused products, or marijuana concentrates, or an image that indicates the presence of a product, such as smoke, etc.

(iii) Stating the location of the business may include information such as the physical address or location, directional information, web site address, email address, or phone number of the licensed business.

(iv) Identifying the nature of the business may include information related to the operation of the business, what the business is engaged in, or the goods the business offers for sale.

(v) Double-sided signs or signs with text visible on opposite sides are permissible and count as a single sign so long as the sign is contained in or affixed to a single structure.

(b) No marijuana licensee may use or employ a commercial mascot outside of, and in proximity to, a licensed marijuana business.

(c) Outdoor advertising is prohibited on signs and placards in arenas, stadiums, shopping malls, fairs that receive state allocations, farmers markets, and video game arcades, whether any of the foregoing are open air or enclosed, but not including any such sign or placard located at an adult only facility.

(d) The restrictions in this section and RCW 69.50.369 do not apply to outdoor advertisements at the site of an event to be held at an adult only facility that is placed at such site during the period the facility or enclosed area constitutes an adult only facility, but must not be placed there more than fourteen days before the event, and that does not advertise any marijuana product other than by using a brand name, such as the business or trade name or the product brand, to identify the event. Advertising at adult only facilities must not be visible from outside the adult only facility.

(e) A sign affixed to the licensed premises or in the window of a licensed premises indicating the location is open for business, closed for business, the hours of operation, that the licensed location has an ATM inside, or other similar informational signs not related to the products or services of the marijuana business are not considered advertising for the purposes of this section.

(f) "Adopt-a-Highway" signs erected by the Washington state department of transportation under a current valid sponsorship with the

department of transportation are not considered advertising for the purposes of this section.

(3) Advertising placed on windows within the premises of a licensed marijuana retail store facing outward must meet the requirements for outdoor advertising as provided in RCW 69.50.369 and this section.

(4) Promotional items such as giveaways, coupons, and distribution of branded or unbranded merchandise are banned. For the purposes of this section, a "giveaway" does not include representative samples of products (edible products and topicals only) carried by a licensed retailer that are not infused with marijuana and are offered to customers on licensed marijuana retail premises for sampling purposes only.

(5) Marijuana retail licensees holding a medical marijuana endorsement may donate product to qualifying patients or designated providers who hold a valid recognition card. Retail licensees may not advertise "free" or "donated" product.

(6) Except for outdoor advertising under subsection (2) of this section, all advertising must contain the following warnings that must be in type size at least ten percent of the largest type used in the advertisement:

(a) "This product has intoxicating effects and may be habit forming.";

(b) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug.";

(c) "There may be health risks associated with consumption of this product."; and

(d) "For use only by adults twenty-one and older. Keep out of the reach of children."

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

(a) "Adult only facility" means:

(i) A location restricted to persons age twenty-one and older by the WSLCB or classified by the WSLCB as off limits to persons under twenty-one years of age; or

(ii) A venue restricted to persons age twenty-one and older and where persons under twenty-one years of age are prohibited from entering or remaining, including employees and volunteers.

(b) "Billboard" means a permanent off-premises sign in a fixed location used, in whole or in part, for the display of off-site commercial messages with a minimum size of five feet in height by eleven feet in width.

(c) "Off-premises sign" means a sign relating, through its message and content, to a business activity, product, or service not available on the premises upon which the sign is erected.

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-310 Transportation license. (1) A transportation license allows the licensee to physically transport or deliver marijuana, marijuana concentrates, and marijuana-infused products between licensed marijuana businesses within Washington state. The application

fee for the transportation license is two hundred fifty dollars and the annual fee is one thousand three hundred dollars.

(2) Applicants for the transportation license must submit the following information:

(a) Personal/criminal history forms for all true parties of interest (see WAC 314-55-035);

The criminal history background check will consist of completion of a personal/criminal history form provided by the WSLCB and submission of fingerprints to a vendor approved by the WSLCB. 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) Documents showing the right to the physical location to be licensed (purchase and sale agreement or lease in the name of the applicant);

(c) Copies of the current UTC common carrier permits. All vehicles and trailers must also be permitted by UTC as common carriers;

(d) Corporate information form or limited liability information form as applicable;

(e) Proof of insurance.

(i) Licensees shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the consumer should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the licensees. Licensees shall furnish evidence in the form of a certificate of insurance satisfactory to the WSLCB that insurance, in the following kinds and minimum amounts, has been secured. Failure to provide proof of insurance, as required, may result in license cancellation.

(ii) Commercial general liability insurance: The licensee shall at all times carry and maintain commercial general liability insurance and if necessary, commercial umbrella insurance for bodily injury and property damage arising out of licensed activities. This insurance shall cover such claims as may be caused by any act, omission, or negligence of the licensee or its officers, agents, representatives, assigns, or servants. The insurance shall also cover bodily injury, including disease, illness and death, and property damage arising out of the licensee's premises/operations, products, and personal injury. The limits of liability insurance shall not be less than one million dollars.

(iii) Insurance carrier rating: The insurance required in (e)(i) of this subsection shall be issued by an insurance company authorized to do business within the state of Washington. Insurance must be placed with a carrier that has a rating of A - Class VII or better in the most recently published edition of *Best's Reports*. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with chapters 48.15 RCW and 284-15 WAC.

(iv) Additional insured. The state and its employees, agents, and volunteers shall be named as an additional insured on all general liability, umbrella, and excess insurance policies. All policies shall be primary over any other valid and collectable insurance.

(3) **Transport manifest.** A complete printed transport manifest on a form provided by the WSLCB containing all information required by the WSLCB must be kept with the product at all times.

(4) **Records of transportation.** Records of all transportation must be kept for a minimum of three years at the licensee's location and are subject to inspection if requested by an employee of the WSLCB or local law enforcement:

(a) Copies of transportation manifests for all deliveries;

(b) A transportation log documenting the chain of custody for each delivery to include driver(s) and vehicle(s) associated with each delivery;

(c) Bank statements and canceled checks for any accounts relating to the licensed business;

(d) Accounting and tax records related to the licensed business;

(e) Records of all financial transactions related to the licensed business, including invoices, contracts and/or agreements for services performed or received that relate to the licensed business;

(f) All employee records, to include training.

(5) **Transportation of product.** Marijuana or marijuana products that are being transported must meet the following requirements:

(a) Only the transportation licensee or an employee of the transportation licensee who is at least twenty-one years of age may transport product. All drivers must carry a valid Washington driver's license with the proper endorsements when operating a vehicle in the transportation of product. All passengers in the vehicle transporting marijuana or marijuana products must be employees of the transportation licensee who are at least twenty-one years of age;

(b) Marijuana or marijuana products must be in a sealed package or container approved by the WSLCB pursuant to WAC 314-55-105;

(c) Sealed packages or containers cannot be opened during transport;

(d) Marijuana or marijuana products must be in a locked, safe and secure storage compartment that is secured to the inside body/compartment of the vehicle transporting the marijuana or marijuana products;

(e) Any vehicle transporting marijuana or marijuana products must be delivered or returned to the shipper within forty-eight hours from the time of pickup;

(f) Live plants may be transported in a fully enclosed, windowless locked trailer, or in a secured area within the inside body/compartment of a van or box truck. A secured area is defined as an area where solid or locking metal partitions, cages, or high strength shatterproof acrylic can be used to create a secure compartment in the fully enclosed van or box truck. The secure compartment in the fully enclosed van or box truck must be free of windows. Live plants may not be transported in the bed of a pickup truck, a sports utility vehicle, or passenger car.

(6) For purposes of this chapter, any vehicle assigned for the purposes of transporting marijuana, (~~usable~~) useable marijuana, marijuana concentrates, or marijuana-infused products shall be considered an extension of the licensed premises and subject to inspection by enforcement officers of the WSLCB. Vehicles assigned for transportation may be stopped and inspected by a WSLCB enforcement officer at any licensed location, or while en route during transportation.

Issue Paper

2018 Cannabis Legislation Rules

Date: August 22, 2018

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 proposed rules (CR 102) for changes to cannabis rules in Chapter 314-55 WAC as a result of legislation passed during the 2018 legislative session (ESSHB 2334).

Why is rule making necessary?

Rulemaking is necessary to ensure that rules are consistent with changes to laws made by the Legislature during the 2018 Legislative Session in ESSHB 2334, 2018 c. 132 (session law). ESSHB 2334 requires that the WSLCB develop testing requirements for cannabinoid additives generated outside the regulated marijuana industry if a marijuana licensee wishes to use those additives in creating marijuana derived products. Only those cannabinoid additives that pass the testing requirements that will be developed in this rulemaking will be able to be used by licensees. The WSLCB drew upon testing requirements for such products already established in Department of Health rules for compliant products in chapter 246-70 WAC in formulating this proposal. Inclusion of pesticide and heavy metal screening is based on DOH rule requirements and because of high levels of pesticides and heavy metals detected in tests of CBD products. Proposed testing requirements are also consistent with the testing requirements applying to marijuana and marijuana products.

What changes are being proposed?

New section. WAC 314-55-109 Cannabinoid additives—Requirements, restrictions, and quality assurance testing.

- As provided in RCW 69.50.326 Licensed marijuana producers and licensed marijuana processors may use a cannabidiol (CBD) product obtained from a source not licensed under this chapter as an additive for the purpose of enhancing the CBD concentration of any product authorized for production, processing, and sale, provided the CBD product:
 - o Has a THC level of 0.3 percent or less; and
 - o Has been tested for contaminants and toxins by a testing laboratory accredited under this chapter and in accordance with testing standards established in this section.
- Establishes security and traceability requirements for cannabidiol (CBD) products obtained from a source not licensed under this chapter.

- Establishes sample deduction and quality assurance testing requirements for cannabidiol (CBD) product obtained from a source not licensed under this chapter, including successful passage and failure limits for the following fields of testing:
 - o Potency to confirm the product is less than 0.3% THC and contains CBD;
 - o Pesticide screening, consistent with pesticide action levels provided in WAC 314-55-108, due to concerns about pesticides being present in these largely unregulated products;
 - o Heavy metal screening, due to concerns about pesticides being present in these largely unregulated products;
 - o Residual solvent screening given that finished CBD oils/extracts have been extracted using various solvents;
 - o Microbiological screening consistent with similar requirements for marijuana and marijuana products; and
 - o Mycotoxin screening consistent with similar requirements for marijuana and marijuana products.
- If a cannabidiol (CBD) product obtained from a source not licensed under this chapter fails quality assurance testing, it may not be used as an additive in marijuana products and must be destroyed consistent with the requirements in WAC 314-55-097.
- Provisions for retesting and remediation of cannabidiol (CBD) products obtained from a source not licensed under this chapter are included, similar to marijuana and marijuana products allowances, and would provide an exemption to destruction on a case-by-case basis.
- A licensee or certified lab that violates any of the provisions of this section is subject to disciplinary action, including possible summary suspension or revocation of the producer license, processor license, producer/processor license, or lab certification.

NEW SECTION

WAC 314-55-109 Cannabinoid additives—Requirements, restrictions, and quality assurance testing. (1) As provided in RCW 69.50.326 Licensed marijuana producers and licensed marijuana processors may use a cannabidiol (CBD) product obtained from a source not licensed under this chapter, provided the CBD product:

(a) Has a THC level of 0.3 percent or less; and

(b) Has been tested for contaminants and toxins by a testing laboratory accredited under this chapter and in accordance with testing standards established in this section.

(2) Licensed marijuana producers and licensed marijuana processors may use a CBD product obtained from a source not licensed under this chapter and chapter 69.50 RCW as an additive for the purpose of enhancing the CBD concentration of any product authorized for production, processing, and sale under this chapter. However, useable marijuana, except marijuana that is an intermediate product that will be converted into a marijuana-infused product or a marijuana concentrate, may not be treated or otherwise adulterated in any way including the addition of a CBD product consistent with the rules of this chapter. Except as allowed under this section, CBD product additives must be lawfully produced by, or purchased from, a producer or processor licensed under this chapter. The testing requirements for CBD products derived from marijuana produced by marijuana licensees are provided in WAC 314-55-102. The testing requirements in this section are required in addition to quality assurance testing otherwise required under this chapter for marijuana products.

(3) **Traceability requirements.** A licensee must enter CBD products obtained from a source not licensed under this chapter into the state traceability system and keep the information in the traceability system completely up to date, consistent with marijuana and marijuana product recordkeeping and traceability requirements in WAC 314-55-083. A licensee must keep CBD products obtained from a source not licensed under this chapter labeled and quarantined in an area separate from marijuana and marijuana products under video surveillance consistent with the requirements for controlled areas in WAC 314-55-083(3) until the CBD products successfully pass quality assurance testing or are destroyed due to failure of tests as provided in this section. At no time during the quarantine period can the product be handled or moved under any circumstances, except for purposes of deducting samples as required under this section, and is subject to auditing by the WSLCB or its designee(s). CBD products obtained from a source not licensed under this chapter that fail quality assurance testing as provided in this section must not be added to any marijuana product and must be disposed of consistent with WAC 314-55-097 and the disposal logged into the traceability system consistent with WAC 314-55-083.

(4) **Testing requirements.** The following sample deduction and testing requirements apply to CBD products obtained from a source not licensed under this chapter. Such products must successfully pass quality assurance testing prior to being added to any marijuana product. Samples that fail quality assurance testing and the corresponding products that the samples were deducted from must be disposed of consistent with WAC 314-55-097.

(a) **Sample size and deduction requirements.** Licensed producers, licensed processors, certified labs, and their employees must adhere

to the minimum sampling protocols as provided in this section. Samples must be deducted in a way that is most representative of the product the sample is deducted from. The minimum sample size for the testing requirements under this section for CBD products is one percent of the product as packaged by the manufacturer of the CBD product but in no case shall the sample be less than two grams. Licensees, certified labs, and their employees may not adulterate or change in any way the representative sample before the sample is tested.

(i) All samples must be collected/deducted in a sanitary environment using sanitary practices and ensure facilities are constructed, kept, and maintained in a clean and sanitary condition in accordance with rules and as prescribed by the Washington state department of agriculture under chapters 16-165 and 16-167 WAC.

(ii) Persons collecting samples must wash their hands prior to collecting a sample, wear appropriate gloves, and must use sanitary utensils and storage devices when collecting samples.

(iii) Samples must be placed in a sanitary plastic or glass container and stored in a location that prevents the propagation of pathogens and other contaminants, such as a secure, low-light, cool and dry location.

(iv) The licensee must maintain the CBD products from which the sample was deducted in a secure, low-light, cool, and dry location to prevent the products from becoming contaminated or degraded prior to the CBD products being added or incorporated into marijuana products after successful passage of testing requirements.

(v) Each quality assurance sample must be clearly marked "quality assurance sample" and be labeled with the following information:

(A) The unique identifier for the product generated by the state traceability system;

(B) The name of the certified lab receiving the sample;

(C) The license number and business or trade name of the licensee sending the sample;

(D) The date the sample was collected; and

(E) The weight of the sample.

(vi) Certified labs may retrieve samples from a marijuana licensee's licensed premises and transport the sample(s) directly to the lab. Certified labs may also return any unused portion of the sample(s).

(b) **Required fields of testing.**

(i) **Potency testing.** Potency testing is required to confirm the product is less than 0.3 percent THC, contains detectable levels of CBD, and to determine the levels of THC, THC-A, CBD, and CBD-A in the product. Synthetic cannabinoids as defined in RCW 69.50.204 are prohibited under RCW 69.50.401 and any test result that suggests the presence of a synthetic cannabinoid must be immediately reported to the WSLCB.

(A) Certified labs must test and report the following cannabinoids to the WSLCB in the state traceability system when testing for potency:

(I) THCA;

(II) THC;

(III) Total THC;

(IV) CBDA;

(V) CBD; and

(VI) Total CBD.

(B) Calculating total THC and total CBD.

(I) Total THC must be calculated as follows, where M is the mass or mass fraction of delta-9 THC or delta-9 THCA: $M \text{ total delta-9 THC} = M \text{ delta-9 THC} + (0.877 \times M \text{ delta-9 THCA})$.

(II) Total CBD must be calculated as follows, where M is the mass or mass fraction of CBD and CBDA: $M \text{ total CBD} = M \text{ CBD} + (0.877 \times M \text{ CBDA})$.

(C) Regardless of analytical equipment or methodology used for testing, certified labs must accurately measure and report the acidic (THCA and CBDA) and neutral (THC and CBD) forms of the cannabinoids.

(D) The following potency results fail quality assurance testing for the purposes of this section and the sample and corresponding product from which the sample was deducted must be disposed of consistent with this section and WAC 314-55-097:

(I) The CBD product tests above 0.3 percent THC;

(II) The CBD product does not contain any detectable amounts of CBD or CBD-A; and

(III) The sample test results indicate that a substance is present that is not THC, CBD, or inert substance which the THC or CBD is dissolved into.

(ii) **Pesticide screening.**

(A) Certified third-party labs must screen for any pesticides that are not allowed and are designated as having the potential for misuse on a list created, maintained, and periodically updated by the department of health in consultation with the Washington state department of agriculture and the WSLCB.

(B) If the WSLCB, WSDA, other designee of the WSLCB, or certified lab identifies a pesticide that is not allowed for use or application on marijuana under this chapter and is above the action levels provided in WAC 314-55-108, that sample and corresponding product from which the sample was deducted has failed quality assurance testing. A sample that tests at or above the action levels for pesticides consistent with WAC 314-55-108 fails pesticide testing requirements for the purposes of this section. A sample and corresponding product from which the sample was deducted that fails quality assurance testing under this section must be destroyed consistent with WAC 314-55-097.

(C) Certified third-party labs must also screen for pyrethrins and piperonyl butoxide (PBO) in samples of CBD products obtained from a source not licensed under this chapter. Certified third-party labs may also screen for additional pesticides not specifically required under this section and per the DOH list, however, any sample that tests at or above the action level for any pesticide(s) as established in WAC 314-55-108 fails the testing requirements under this section and must be disposed of consistent with WAC 314-55-097.

(iii) **Heavy metal screening.** For the purposes of heavy metal screening, a sample fails quality assurance testing and must be disposed of consistent with WAC 314-55-097 if it meets or exceeds the following limits:

Metal	Limit, µg/daily dose (5 grams)
Inorganic arsenic	10.0
Cadmium	4.1
Lead	6.0
Mercury	2.0

(iv) **Residual solvents screening.** Certified labs must test for the solvents listed in the table below at a minimum. Except as otherwise provided in this subsection, a sample and corresponding product from which the sample was deducted fail quality assurance testing for residual solvents and must be disposed of consistent with WAC 314-55-097 if the results meet or exceed the limits provided in the table below. 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 Pharmacopoeia, USP 30 Chemical Tests / <467> - Residual Solvents (USP <467>)* not listed in the table below fail quality assurance testing.

Solvent	ppm
Acetone	5,000
Benzene	2
Butanes	5,000
Cyclohexane	3,880
Chloroform	2
Dichloromethane	600
Ethyl acetate	5,000
Heptanes	5,000
Hexanes	290
Isopropanol (2-propanol)	5,000
Methanol	3,000
Pentanes	5,000
Propane	5,000
Toluene	890
Xylene*	2,170

* Usually 60% *m*-xylene, 14% *p*-xylene, 9% *o*-xylene with 17% ethyl benzene.

(v) **Microbiological screening.** The sample and corresponding product from which the sample was deducted fail quality assurance testing for microbiological screening and must be disposed of consistent with WAC 314-55-097 if the results exceed the following limits:

	Enterobacteria (bile-tolerant gram-negative bacteria)	<i>E. coli</i> (pathogenic strains) and <i>Salmonella spp.</i>
Unprocessed Plant Material	10 ⁴	Not detected in 1g
Extracted or Processed Botanical Product	10 ³	Not detected in 1g

(vi) **Mycotoxin screening.** The sample and corresponding product from which the sample was deducted fail quality assurance testing for mycotoxin screening and must be disposed of consistent with WAC 314-55-097 if the results exceed the following limits:

- (A) Total of Aflatoxin B1, B2, G1, G2: 20 µg/kg of substance; and
- (B) Ochratoxin A: 20 µg/kg of substance.

(5) **Test results reporting requirements.** Certified labs must report all test results as required by this section into the state

traceability system within twenty-four hours of completion of the tests.

(6) **Retesting.** At the request of the producer or processor, the WSLCB may authorize a retest to validate a failed test result on a case-by-case basis. All costs of the retest will be borne by the producer or the processor requesting the retest. Potency retesting will generally not be authorized.

(7) **Remediation.** Producers and processors may remediate failed products so long as the remediation method does not impart any toxic or deleterious substance to the CBD products obtained from a source outside the regulated system. Remediation solvents or methods used on the product must be disclosed to a licensed processor the producer or producer/processor transfers the products to; a licensed retailer carrying marijuana products derived from the remediated product; or consumer upon request. The product(s) the failed sample(s) were deducted from must be remediated using the same remediation technique. No remediated CBD products obtained from a source outside the regulated system may be sold, transported, or used in the processing of marijuana products until the completion and successful passage of quality assurance testing as required in this section.

(8) A licensee or certified lab that violates any of the provisions of this section is subject to disciplinary action, including possible summary suspension or revocation of the producer license, processor license, producer/processor license, or lab certification.