



Washington State Liquor and Cannabis Board Meeting

Wednesday, February 17, 2021, 10:00am
This Meeting was Convened Via Phone Conference

Meeting Minutes

1. CALL TO ORDER

Chair Jane Rushford called the regular meeting of the Washington State Liquor and Cannabis Board to order at 10:00 am on Wednesday, February 17, 2021. Member Ollie Garrett and Member Russ Hauge were also present.

2. APPROVAL OF MEETING MINUTES

MOTION: Member Garrett moved to approve the February 3, 2021, Board meeting minutes.

SECOND: Member Hauge seconded.

ACTION: Chair Rushford approved the motion.

3. ALCOHOL RELATED RULEMAKING AND TIMELINES

Presenter – Audrey Vasek, Policy and Rules Coordinator

TIMELINES

Audrey Vasek: Good morning, Chair Rushford and Board Members Garrett and Hauge. Thank you for the opportunity to be here. I have an update on the rule project related to the implementation of 2020 legislation – Engrossed Second Substitute Senate Bill 5549, related to distilleries. The public hearing on the CR 102 rule proposal was held of February 3, 2021, during the last Board meeting. One person provided oral testimony and two written comments were received. We are considering making substantive changes to the original rule proposal in order to incorporate feedback from public comment and make the proposed rules compatible with changes to distillery monthly reporting and payment rules that will be necessary as a result of the Court of Appeals decision in *Blue Spirits Distilling vs. LCB* issued on December 22, 2020. Potential rule revisions are being discussed with the rules project team, including staff from Finance, Enforcement and Education, and Licensing divisions. Our next steps will be to prepare a supplemental CR 102 with proposed rules which I tentatively expect to be available in March.

That concludes my update, are there any questions?

Member Garrett: No questions.

Member Hauge: No questions from me.

Chair Rushford: None from me. Thank you Audrey.

Ms. Vasek: Thank you.

ACTION ITEM (A)

ACTION ITEM 3A - Board Approval of CR 101 for Distillery Monthly Reporting and Payment Rules

Audrey Vasek, Policy and Rules Coordinator, began the briefing with materials (HANDOUT 3A).

Ms. Vasek: Today I am requesting approval to file a CR 101 preproposal statement of inquiry to begin a new rulemaking project to consider changes to the distillery monthly reporting and payment rules, consistent with the Court of Appeals decision in *Blue Spirits Distilling* issued on December 22, 2020.

For background on the *Blue Spirits* decision, the Court of Appeals held that rules requiring distillers to pay spirits retailer licensing fees when they acted as spirits retailers were invalidated. The new rule project will consider revising: WAC 314-28-070 – monthly reporting and payment requirements for distiller and craft distiller; WAC 314-28-080 – what if a distillery or craft distillery licensee fails to report or pay; and other rules as necessary consistent with the *Blue Spirits* decision. Proposed rules are not offered at this point in the rule development process.

Timeline

February 17, 2021	Board is asked to approve filing pre-proposal statement of inquiry (CR 101). CR 101 filed with the Office of the Code Reviser. LCB webpage updated and notice circulated by GovDelivery distribution list. Initial comment period begins.
March 3, 2021	Notice is published in the Washington State Register under WSR #21-05.
March 31, 2021	Initial comment period ends.
April 14, 2021	Board is asked to approve filing proposed rules (CR 102). CR 102 is filed with the Office of the Code Reviser. LCB webpage is updated and notice is circulated by the rules distribution list. Formal comment period begins.
May 5, 2021	Notice is published in the Washington State Register under WSR #21-09.
May 26, 2021	Public hearing is held and formal comment period ends.
June 9, 2021	Board is asked to adopt rules, if no substantive changes are made (CR 103).

	<p>Concise explanatory statement is provided to individuals offering written or oral comment at the public hearing or during the formal comment period under RCW 34.05.325.</p> <p>CR 103 and adopted rules are filed with the Office of the Code Reviser.</p> <p>LCB webpage is updated and notice is circulated by the rules distribution list.</p>
July 10, 2021	The rules are effective 31 days after filing unless otherwise specified. See RCW 34.05.380(2).

Chair Rushford: Thank you for the excellent overview, Audrey. If there are no questions, is there a motion?

MOTION: Member Hauge moved to approve the CR 101 for Distillery Monthly Reporting and Payment Rules

SECOND: Member Garrett seconded.

ACTION: Chair Rushford approved the motion.

Chair Rushford: Thank you again, Audrey. We'll move now the cannabis related rulemaking and timelines.

4. CANNABIS RELATED RULEMAKING AND TIMELINES

Presenter – Casey Schaufler, Policy and Rules Coordinator

TIMELINES

Casey Schaufler: Good morning Chair Rushford and Board Members Garrett and Hauge.

For Tier I expansion project, we continue internal discussion around the results and analysis of the Tier I survey, the “listen and learn” sessions and what we can do to support Tier I licensees within our statutory authority. That includes considering economic as well as social equity impacts that will help us determine the path forward. We anticipate bringing an updated rule development plan to the Board for consideration in the coming weeks.

As to quality control (rules), staff is reviewing feedback from the three “deliberative dialogue” forums. The final panel, regarding accredited lab perspectives, was held last week on February 11. A total of 76 unique users participated in the panel. Using information gleaned from these panels as well as feedback during the CR 102 public comment period will help determine next steps for this rulemaking effort.

This concluded cannabis timeline updates for today, are there any questions?

Member Hauge: No questions.

Member Garrett: No questions.

Chair Rushford: No questions, but a comment from me. I want to acknowledge the outstanding work through deliberative dialogue and other engagement opportunities with our stakeholders and licensees. Excellent work, thank you.

We'll move now to the actions items.

ACTION ITEMS (A-B)

ACTION ITEM 4A - Board Approval of CR 101 for WAC 314-55-040 – Criminal History Background Checks

Casey Schaufler, Policy and Rules Coordinator, began the briefing with materials (HANDOUT 4A).

Mr. Schaufler: This is a CR 101 preproposal statement of inquiry to evaluate rules regarding the criminal history of cannabis license applicants under WAC 314-55-040. Initiative 502, or I-502, established a legal framework for the Board to review the criminal history of marijuana license applicants, along with broad rulemaking authority to create rules created to criminal history background check standards. The initial rules concerning the subject were established in late 2013 and the most recent revision occurred in early 2016.

This rulemaking is necessary in order to review current criminal history background check standards and criteria in an effort to remove unnecessary barriers to entry into the legal cannabis market by individuals disproportionately impacted by cannabis criminalization. Any proposed revisions will be designed to support socially equitable conditions.

MOTION: Member Hauge moved to approve the CR 101 for WAC 314-55-040 – Criminal History Background Checks

SECOND: Member Garrett seconded.

ACTION: Chair Rushford approved the motion.

ACTION ITEM 4B - Board Adoption of CR 103 for THC Vapor Products – Implementing HB 2826

Casey Schaufler, Policy and Rules Coordinator, began the briefing with materials (HANDOUT 4B).

Mr. Schaufler: The CR 103 package I'm submitting for your approval today is for the implementation of House Bill (HB) 2826, now codified in RCW 69.50.101, 69.50.327 and 69.50.342 regarding marijuana vapor products. The bill was passed by legislature in response to an outbreak of lung injuries associated with individuals who consumed THC or nicotine vapor products designated as e-cigarette or vapor product use associated lung injury, referred to in short as EVALI. These rules, consistent with HB 2826 will add the following:

- New definition in WAC 314-55-010(4) for characterizing flavor
- New definition in WAC 314-55-010(40) for terpenes as well as sub-definitions for botanical terpenes, synthetic terpenes and terpenoids

- New section 314-55-550 – marijuana vapor products, outlining the Board’s processes for regulating cannabis vapor products
- New section 314-55-1055 – ingredient disclosure
 - Please note this section is currently active under the Board’s adoption of emergency rule and as authorized under statute as provided by HB 2826
 - This emergency rule has been continuously in effect since October 2019

The CR 103 memo reflects an extensive timeline of emergency rules adopted by both the Washington State Board of Health (SBOH) and this Board in response to EVALI.

This rulemaking follows two well attended “listen and learn” sessions held on the 1st and 29th of September. These two sessions reviewed the conceptual draft language for the definitions and new section of rule as well as the format and content of the ingredient disclosure form.

I’d also like to highlight that the SBOH adopted on November 5, a permanent prohibition on the sale of vapor products containing vitamin E acetate, with the rule taking effect on November 15 as WAC 246-80-021.

The scope of work for this rulemaking is solely to implement HB 2826. Consistent with HB 2826, the rules will require processors and producers to disclose all compounds used to produce, or added to, marijuana vapor products. This disclosure is estimated to incur administrative costs for licensees but is not expected to exceed any of the thresholds for more than minor cost as defined under the Regulatory Fairness Act. The rules to not change, modify, add cost or otherwise alter the license application process.

We received two written comments following the CR 102 filing for rules regarding cannabis or marijuana vapor products, which are addressed in the concise explanatory statement. The public hearing was held on February 3, with no one presenting oral comment. If approved, the CR 103 will be filed with the Code Reviser today and would become effective in 31 days on March 20, 2021

MOTION: Member Garrett moved to adopt the CR 103 for THC Vapor Products – Implementing HB 2828.

SECOND: Member Hauge seconded.

Chair Rushford clarified that the motion for consideration was regarding HB 2826. Casey also confirmed.

MOTION: Member Garrett moved to adopt the CR 103 for THC Vapor Products – Implementing HB 2826.

SECOND: Member Hauge seconded the motion as corrected.

ACTION: Chair Rushford approved the motion.

5. GENERAL PUBLIC COMMENT

Chair Rushford: Dustin, did we have anyone sign in to make any remarks.

Dustin Dickson: Good morning Chair. Somebody did sign in to speak just as the meeting started, I have Director Garza on the line.

Chair Rushford: Thank you. Welcome, Rick.

Rick Garza – WSLCB Director

Thank you, Dustin, for helping me get connected. Recognizing that this is your last Board meeting, Jane, I wanted to share a little bit for the other Board members and staff that weren't present yesterday at our management team meeting.

We took some time to pay tribute to the years that Jane has been with us. I wish the other Board members could have heard that. I wish the staff that weren't present could have heard that, and our stakeholders as well. It was really a great opportunity for us to thank you for your leadership during your term. There were a lot of things that were said, and I won't remember all of them, but there were a couple words that stood out in that discussion. Megan used the word "grace". I think the way that you conduct yourself as our Chair, in our meetings when we were together face to face, you would walk into the room and welcome everyone who was there. You would walk around the room to say hello to everyone and it just showed your transparency, openness, respect and courtesy for people at all times. That was something that our employees saw in you every day.

Our division directors even talked about it yesterday – how, with them, and any employee in the organization – you would always reach out and see how they were doing and ask about their family members. We talked about how whenever an email would go out with kudos from one of our directors or from staff, you were typically the first person to join in and send support and congratulations to that employee no matter where they worked in the organization. That is something that people will hold onto and I think that was really important to our employees that our chair would reach out. And not only kudos, but employees that were going through something difficult you would share your concern with them. So I think on the public relations side with respect to human relations to our agency, you really were graceful in that process and always respectful, courteous and were the example and role model for the culture we want to build in the organization.

And, when I think about the Board, some of us have had the privilege of working with many Boards and Board members, I just think you did a really spectacular job of organizing the office and of working with the two Board members and the staff to make that work that you do as efficient and transparent as possible. You were always looking forward to the future – you coined "Cannabis 2.0" – what can we do now that we've learned where we've come from and what adjustments can be made to change some of things that we've done to make it easier on us and honestly to make it easier for licensees.

There are so many challenges, especially in the cannabis space, the priorities of the Board over the last few years were to help the smallest growers, to help our medical patients get compliant product, and of course to create diversity in our cannabis market place with social equity. We were successful in passing a bill last year, and Ollie is leading us and representing us on the Task Force, and there will be changes that comes, that will lead to changes we all feel are important.

I know that we're going to miss you. You haven't shared – but, I suspect you won't retire because there are other endeavors for you to be involved in. I met you back in the 80's, we came back together to work again here. It was fun the first time and fun this time although challenging as we had a large agency to help serve.

On behalf of the staff and all of our employees, I know our stakeholders too, we want to thank you for the years that you gave to this agency. We'll miss you, thank you Jane.

Chair Rushford: Rick, thank you so much for making the time to be here today and for your generous comments. I don't have the appropriate words to share with you and everyone in the organization to represent how meaningful and enriching this has been. I will miss you all and will be forever appreciative. Thank you.

Dustin, did we have anyone else sign in?

Mr. Dickson: No.

Chair Rushford: Thank you very much, everyone, for being here today. I hope our paths cross again in the future. Take care and keep doing the great work underway.

ADJOURN

Chair Rushford adjourned the meeting at 10:19am.

Minutes approved this 17th day of March, 2021



Russ Hauge
Board Member



Ollie Garrett
Board Member

Minutes prepared by: Dustin Dickson, Executive Assistant to the Board

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

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