



Washington State
Liquor and Cannabis Board

Date: October 13, 2021

To: David Postman, Board Chair
Ollie Garrett, Board Member
Russ Hauge, Board Member

From: Kathy Hoffman, Policy and Rules Manager

Copy: Rick Garza, Agency Director
Toni Hood, Deputy Director
Justin Nordhorn, Director of Policy and External Engagement
Becky Smith, Licensing Director
Chandra Brady, Director of Enforcement and Education

Subject: WAC 314-55-560 – Evaluation of Additives, Solvents, Ingredients, or Compounds Used in the Production of Marijuana Products.

The Policy and Rules Manager requests approval to file a rule proposal (CR 102) for the rule making described in the CR 102 Memorandum attached to this order and presented at the Board meeting on October 13, 2021.

If approved for filing, the tentative timeline for the rule making process is outlined below:

October 13, 2021	Board is asked to approve filing proposed rules (CR 102). CR 102 filed with the Office of the Code Reviser. LCB webpage updated and notice circulated by rules distribution list. Formal comment period begins.
November 3, 2021	Notice published in the Washington State Register.
December 8, 2021	Public hearing held and formal comment period ends.
January 5, 2022	Board is asked to adopt rules if no substantive changes are made (CR 103). Concise Explanatory Statement provided to individuals offering written and oral comment at the public hearing, and during the formal comment period, consistent with RCW 34.05.325. CR 103 and adopted rules are filed with the Office of the Code Reviser. LCB webpage updated and notice circulated to all WSLCB GovDelivery subscribers.

February 5, 2022	Rules are effective 31 days after filing (unless otherwise specified).
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☒ Approve ☐ Disapprove



David Postman, Chair

10.13.2021
Date

☒ Approve ☐ Disapprove



Ollie Garrett, Board Member

10.13.2021
Date

☒ Approve ☐ Disapprove



Russ Hauge, Board Member

10.13.2021
Date

Attachment: CR 102 Memorandum



CR 102 Memorandum

Regarding New Section WAC 314-55-560 – Evaluation of Additives, Solvents, Ingredients, or Compounds Used in the Production of Marijuana Products.

Date: October 13, 2021
Presented by: Kathy Hoffman, Policy and Rules Manager

Background

In mid-2020, WSLCB became aware of products entering the regulated market with labeling noting the presence of cannabinoids other than delta-9 tetrahydrocannabinol (THC). In early 2021, the agency also became aware of the conversion of CBD, hemp, or both to delta-8 THC, delta-9 THC, and other marijuana compounds not currently identified or defined in the Revised Code of Washington (RCW), the Washington State Administrative Code (WAC), or both. These products include, but are not limited to marijuana infused edibles and marijuana concentrates. WSLCB also became aware of products with labeling noting the presence of THC compounds other than delta-9 THC in markets it does not regulate.

WSLCB issued Policy Statement PS-21-01 on April 28, 2021 concerning tetrahydrocannabinol (THC) compounds other than delta-9 and the conversion of CBD, hemp, or both to delta-8 THC, delta-9 THC, or any other cannabis compound not currently identified or defined in the Revised Code of Washington (RCW), the Washington Administrative Code (WAC), or both. Based on questions received concerning the policy statement, and the agency voluntarily issued a clarifying statement on May 3, 2021. Both of these communications were issued as part of an agency initiated strategic, iterative and transparent process designed to leverage the Board's limited regulatory authority concerning THC compounds, maximize stakeholder engagement, and assure that the rule development process could be meaningfully and effectively used to inform future legislation while being grounded in verifiable data, fact, and science.

On May 12, 2021, the Board approved a CR 101 filed as WSR 21-11-036. When the CR 101 was approved and filed, the scope of the rule project was limited and narrowly scoped to address marijuana compounds other than delta-9.

On June 16, 2021, a special Board caucus was held. During the caucus, it became apparent that the scope of WSR 21-11-036 needed to be expanded and clarified.

On July 7, 2021, the Board withdrew WSR 21-11-026, and approved a new CR 101 filed as WSR 21-14-117, expanding the scope of the rule project to include whether the Board should also evaluate CBD, hemp, or both converted to delta-8 THC, delta-9 THC, or any other marijuana compound that is not currently identified or defined in the Revised Code of Washington (RCW), the Washington Administrative Code (WAC), or both, to determine whether such substances pose a risk to public health or youth access.

Comments were received for both CR 101 filings. All comments are provided here as Attachment A.

WSLCB Stakeholder Engagement

The agency's stated goal of grounding this work in science and verifiable data was realized in extensive stakeholder engagement that began by hosting two Deliberative Dialogue sessions on cannabis plant chemistry. Deliberative Dialogue is a stakeholder engagement model designed to engage participants in facilitated policy discussion rather than responding to conceptual draft rules. The first session occurred on June 3, 2021 and was empaneled by experts from the University of Washington, Washington State University, the sole cannabis research licensee in Washington State, a cannabis lab director, and doctoral level industry representative. This session was attended by well over 120 individuals, including the FDA, CDC, Health Canada, and the agency's national partners.

Based on this initial panel discussion and its subsequent question/answer session, themes and points of clarification emerged, suggesting that a follow up session may be appropriate. As a result, WSLCB hosted a second Deliberative Dialogue session on July 20, 2021, reassembling the original panel with the exception of one individual. This session was as well attended as the first, and both sessions informed the development of conceptual draft rules that eventually became the rule text of this proposal.

The WSLCB hosted one virtual Listen and Learn session on September 9, 2021 to provide an opportunity for licensees and other interested parties to respond to conceptual draft rules for the evaluation of THC compounds. Participants were invited to speak to what they liked, didn't like and offer proposed language during the session and after the session. Few substantive concepts were offered, and two revised language offerings provided. The majority of the session occurred in the chat, and consisted largely of debate around the legality of delta-8 derived from various sources rather than the substance of the conceptual draft rules. The chat, as well as a table linking rule language offerings to the conceptual draft rules are provided here as Attachments B and C.

It is important to note that attendees requested a definition for “synthetic” and “synthetic cannabinoid” in rule when the agency released potential legislation for stakeholder review the week before, placing these more complex definitions for consideration in statute. A webinar concerning that potential legislation and those specific definitions was held on September 27, 2021.

Rule Necessity

As noted above, WSLCB became aware of products entering the regulated market with labeling noting the presence of cannabinoids other than delta-9 THC, and later became aware of the conversion of CBD, hemp, or both to delta-8 THC, delta-9 THC, and other marijuana compounds not currently identified or defined in statute or regulation. The agency’s regulatory authority is limited to marijuana products as defined in statute. As a result, products containing cannabinoids other than delta-9 THC, and products that are the result of the conversion of CBD, hemp, or both to delta-8 THC or delta-9 THC are not subject to that same rigorous regulatory and quality standards that marijuana edibles, concentrates and other products defined in statute are.

For example, delta-8 THC is a psychoactive substance found in the *Cannabis sativa* plant, of which marijuana and hemp are two varieties. Delta-8 THC is one of over 100 cannabinoids produced naturally by the cannabis plant but is not found in significant amounts in the cannabis plant. Concentrated amounts of delta-8 THC are typically manufactured from hemp-derived cannabidiol (CBD). The Washington State Department of Agriculture (WSDA) has explicit regulatory authority over hemp.

Delta-8 products derived from hemp have not been evaluated or approved by the FDA, WSDA, or WSLCB for safe use, and may be marketed in ways that put public health at risk. As of September 14, 2021, the FDA reported an increase in adverse event reporting involving delta-8 THC- containing products. Specifically, From December 2020 through July 2021, the FDA received adverse event reports from both consumers and law enforcement describing 22 patients who consumed delta-8 THC products; of these, 14 presented to a hospital or emergency room for treatment following the ingestion. Of the 22 patients, 19 experienced adverse events after ingesting delta-8 THC-containing food products (e.g., brownies, gummies). Adverse events included vomiting, hallucinations, trouble standing, and loss of consciousness.

National poison control centers received 661 exposure cases of delta-8 THC products between January 2018 and July 31, 2021, 660 of which occurred between January 1, 2021, and July 31, 2021. Of the 661 exposure cases:

- 41% involved unintentional exposure to delta-8 THC and 77% of these unintentional exposures affected pediatric patients less than 18 years of age.

- 39% involved pediatric patients less than 18 years of age
- 18% required hospitalizations, including children who required intensive care unit (ICU) admission following exposure to these products.

Although the Board has statutory authority to engage in emergency rulemaking under certain conditions described in RCW 34.05.350 generally, this rule proposal provides a specific framework for the Board to evaluate additives, solvents, ingredients or compounds used in the production of marijuana products and prohibit use of substances determined to pose a risk to public health or youth access. The framework provides that such prohibition may occur by either emergency or permanent rule, providing an additional layer of oversight for substances that may pose risk to public health or youth access.

Description of Rule Changes

New Section. WAC 314-55-560 – Evaluation of additives, solvents, ingredients or compounds used in the production of marijuana products.

Creates a new section of rule to provide the Board with a framework to evaluate products other than marijuana vapor products as described in WAC 314-55-550.

New Subsection. WAC 314-55-560(1) – Purpose and scope. Describes the purpose and scope of the section, directly referencing the Controlled Substances Act (chapter 69.50 RCW), and more specifically, RCW 69.50.342 (1)(m) that provides that the Board may prohibit the use of any type of additive, solvent, ingredient, or compound used in the production and processing of marijuana products.

New Subsection. WAC 314-55-560(2) – Definitions. Provides definitions for terms that are referenced in statute, but for which there is no statutory definition, such as “additive,” “compound,” “ingredient,” “nonmarijuana additive,” and “solvent.”

New Subsection. WAC 314-55-560(3) – Procedure. Establishes procedures for the Board to evaluate and prohibit additives, solvents, ingredients, or compounds in the production or use of marijuana products that may pose a risk to public health. Establishes process to determine if additives, solvents, ingredients, or compounds in the production or use of marijuana vapor products should no longer be prohibited.

Attachments:

Attachment A (Summary of comments received following the filing of the CR 101 as WSR 21-11-036 on May 12, 2021, and the filing of the expanded CR 101 as WSR 21-14-117 on July 7, 2021).

Attachment B (Chat from virtual Listen & Learn session, held September 9, 2021).

Attachment C (Public comment pertaining to specific conceptual draft rule sections collected from virtual Listen & Learn session, held September 9, 2021).



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Washington State Liquor and Cannabis Board

☒ **Original Notice**

☐ **Supplemental Notice to WSR** _____

☐ **Continuance of WSR** _____

☒ **Preproposal Statement of Inquiry was filed as WSR 21-14-117 ; or**

☐ **Expedited Rule Making--Proposed notice was filed as WSR** _____; or

☐ **Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**

☐ **Proposal is exempt under RCW** _____.

Title of rule and other identifying information: (describe subject) New rule section, WAC 314-55-560 – Evaluation of Additives, Solvents, Ingredients, or Compounds Used in the Production of Marijuana Products. The Washington State Liquor and Cannabis Board (WSLCB) proposes a new rule section that would allow the WSLCB to evaluate additives, solvents, ingredients or compounds used in the production and processing of marijuana products other than delta-9 tetrahydrocannabinol (THC), as well as CBD, hemp, or both converted to delta-8 THC, delta-9 THC, or any other marijuana compound that is not currently identified or defined in the Revised Code of Washington (RCW), the Washington Administrative Code (WAC), or both, to determine whether such substances pose a risk to public health or youth access.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
December 8, 2021	10:00AM	In response to the coronavirus disease 2019 (COVID-19) public health emergency, the Board will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead. Board members, presenters, and staff will all participate remotely. The public may login using a computer or device, or call-in using a phone, to listen to the meeting through the WebEx application. The public may provide verbal comments during the specified public comment and rules hearing segments	For more information about board meetings, please visit https://lcb.wa.gov/boardmeetings/board_meetings .

Date of intended adoption: Not earlier than December 22, 2021 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Katherine Hoffman, Policy and Rules Manager

Address: 1025 Union Avenue SE, Olympia WA 98504

Email: rules@lcb.wa.gov

Fax:

Other:

By (date) December 8, 2021

Assistance for persons with disabilities:

Contact Anita Bingham, ADA Coordinator, Human Resources

Phone: 360-664-1739]
Fax: 360-664-9689
TTY: 7-1-1 or 1-800-833-6388
Email: Anita.Bingham@lcb.wa.gov
Other:
By (date) December 1, 2021

Purpose of the proposal and its anticipated effects, including any changes in existing rules: RCW 69.50.326(1)(m) provides, among other things, that the Board may adopt rules prohibiting the use of any type of additive, solvent, ingredient, or compound in the production and processing of marijuana products. Proposed new rule section, WAC 314-55-560, establishes a procedure for the Board to prohibit the use of any type of additive, solvent, ingredient, or compound used in the production and processing of marijuana products, and defines these terms in a way that will assist the Board in determining whether an additive, solvent, ingredient, or compound may pose a risk to public health or youth access.

Reasons supporting proposal: In mid-2020, WSLCB became aware of products entering the regulated market with labeling noting the presence of cannabinoids other than delta-9 tetrahydrocannabinol (THC). In early 2021, the agency also became aware of the conversion of CBD, hemp, or both to delta-8 THC, delta-9 THC, and other marijuana compounds not currently identified or defined in the Revised Code of Washington (RCW), the Washington State Administrative Code (WAC), or both. These products include, but are not limited to marijuana infused edibles and marijuana concentrates. WSLCB also became aware of products with labeling noting the presence of THC compounds other than delta-9 THC in markets it does not regulate.

Currently, the only products that may be produced, processed, and sold in the I-502 system are products defined as "marijuana" in statute. RCW 69.50.101(y) defines "marijuana" as all parts of the plant Cannabis with a THC concentration greater than 0.3 percent. RCW 69.50.101(uu) provides that "THC concentration" means percent of delta-9 THC content of any part of the plant Cannabis. The production and processing of marijuana products may involve the use of potentially harmful additives, solvents, ingredients or compounds. For example, the chemicals used to create the concentration of delta-8 THC claimed in the current market place may be harmful, and may pose a risk to public health and safety. The proposed rules provide a framework for the Board to evaluate whether additives, solvents, ingredients or compounds used in the production of marijuana products pose or may pose, a risk to public health or youth access.

Statutory authority for adoption: RCW 69.50.342; RCW 69.50.345

Statute being implemented: RCW 69.50.342(1)(m)

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: N/A

Name of proponent: (person or organization) Washington State Liquor and Cannabis Board

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting: Rules Manager	Katherine Hoffman, Policy and	1025 Union Avenue SE, Olympia WA 98502	360-664-1664
Implementation: Licensing	Becky Smith, Director of	1025 Union Avenue SE, Olympia WA 98502	360-664-1753
Enforcement: Education and Enforcement	Chandra Brady, Director or	1025 Union Avenue SE, Olympia WA 98502	360-664-1726

Is a school district fiscal impact statement required under RCW 28A.305.135? ☐ Yes ☒ No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

Is a cost-benefit analysis required under RCW 34.05.328?

☐ Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

☒ No: Please explain: A cost benefit analysis was not required under RCW 34.05.325 because the subject of proposed rulemaking does not qualify as significant legislative rule or other rule requiring a cost benefit analysis under RCW 34.05.328(5).

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

☐ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

☐ This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

☐ This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

☐ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

☐ RCW 34.05.310 (4)(b)
(Internal government operations)

☒ RCW 34.05.310 (4)(e)
(Dictated by statute)

☐ RCW 34.05.310 (4)(c)
(Incorporation by reference)

☐ RCW 34.05.310 (4)(f)
(Set or adjust fees)

☐ RCW 34.05.310 (4)(d)
(Correct or clarify language)

☐ RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

☐ This rule proposal, or portions of the proposal, is exempt under RCW .

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

☒ No Briefly summarize the agency's analysis showing how costs were calculated.

Agencies are required under chapter 19.85 RCW to consider costs imposed on businesses and costs associated with proposed rule compliance. Agencies are not required under chapter 19.85 RCW to consider indirect costs unassociated with compliance. Fines, penalties, or defense costs associated with enforcement actions for failure to comply with proposed rules are considered to be indirect costs that are not associated with compliance. Here, the agency considered potential administrative costs that a licensee may incur if an additive, solvent, ingredient, or compound used in the

production and processing of marijuana products is determined to pose a risk to public health or youth access, and the Board prohibits its presence in the I-502 market.

LCB applied the North American Industry Classification System (NAICS) codes 111419 for marijuana grown under cover, 111998 for marijuana grown in an open field, and 424590 for marijuana processors. The industry descriptions for each of these codes is presented in the table below, and can be accessed at <https://www.census.gov/library/publications/2017/econ/2017-naics-manual.html>.

LCB applied a default cost when analyzing whether the rules would have a disproportionate impact on small businesses as defined in RCW 19.85.020(3). This reflects 4 hours of administrative time at \$50 per hour, for a total of \$200. The agency assumes this activity would include activities such as completing and submitting forms to LCB, and telephone calls.

2017 Industry NAICS Code	Estimated Cost of Compliance	Industry Description	NAICS Code Title	Minor Cost Estimate - Max of 1%Pay, 0.3%Rev, and \$100	1% of Avg Annual Payroll . (0.01*AvgPay)	0.3% of Avg Annual Gross Business Income (0.003*AvgGBI)
111419	\$ 200.00	Marijuana Producers	Other Food Crops Grown Under Cover	\$2,349.42	\$2,349.42 2018 Dataset pulled from USBLS	\$2,324.68 2018 Dataset pulled from DOR
111998	\$ 200.00	Marijuana Producers	All Other Miscellaneous Crop Farming	\$9,125.03	\$9,125.03 2018 Dataset pulled from USBLS	\$2,834.77 2018 Dataset pulled from DOR
424590	\$200.00	Marijuana Processors	Marijuana merchant wholesalers	\$6,733.79	\$3,864.24 2018 Dataset pulled from USBLS	\$6,733.79 2018 Dataset pulled from DOR

These calculations indicate that estimated administrative costs do not exceed minor cost thresholds, and will not impose more than minor costs on those who must comply with the rules.

☐ Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: October 13, 2021

Name: David Postman

Title: Board Chair

Signature:



NEW SECTION

WAC 314-55-560 Evaluation of additives, solvents, ingredients or compounds used in the production of marijuana products. (1) **Purpose and scope.** The purpose of this section is to establish a procedure for the board to evaluate additives, solvents, ingredients or compounds used in the production of marijuana products, as those products are defined in chapter 69.50 RCW.

(2) **Definitions.** For purposes of this chapter, the following definitions apply unless the context clearly states otherwise:

(a) "Additive" means any substance the use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any marijuana product;

(b) "Compound" means a chemical substance composed from more than one separate chemical element;

(c) "Ingredient" means something that enters into a mixture or is a component part of any combination or mixture;

(d) "Nonmarijuana additive" means a substance or a group of substances that are derived from a source other than marijuana.

(i) "Nonmarijuana additive" includes, but is not limited to, purified compounds, essential oils, oleoresins, essences, or extractions, protein hydrolysates, distillates, or isolates;

(ii) "Nonmarijuana additive" does not include plant material that is in the whole, broken, or ground form.

(e) "Solvent" means a substance capable of being used in dissolving a solute with the exception of water.

(3) **Procedure.**

(a) The board may prohibit the use of any additive, solvent, ingredient or compound in the production of marijuana products that may pose a risk to public health or youth access including, but not limited to:

(i) Verifiable case report data;

(ii) Other local, state and federal agency findings, reports, etc.;

(iii) A product or substance that is the subject of a recall under WAC 314-55-225;

(iv) Any other information sourced and confirmed from reliable entities.

(b) The board may prohibit the use of a product or substance by adoption of emergency or permanent rules. The board will provide notices of rule making consistent with the requirements of chapter 34.05 RCW.

(c) The board will maintain a list of prohibited substances prohibited by emergency or permanent rules on its website.

(d) The list of prohibited substances will be reviewed on at least an annual basis.

(e) Prohibited substances may be removed from the list of prohibited substances if the board determines, after a review consistent with (a)(i) through (iv) of this subsection, that it no longer poses a risk to public health or youth access.

ATTACHMENT A

Comments Received Concerning CR 101 filed as WSR #21-11-036 on May 12, 2021 and updated on July 7, 2021 as WSR #21-14-117

DATE	SOURCE	COMMENT	COMMENTOR
June 3, 2021	Email entitled "Delta 8"	<p>Just wanted to make sure you guys are aware that the WSLCB has no authority over Delta-8 that is organically converted from CBD or CBG under the Federal Farm Bill. This is no different than any other food grade conversion btw.</p> <p>You can't supercede [sic] federal law, you can't interfere with Interstate Commerce.</p> <p>The rules other states have recently passed are in fact illegal languages that were drafted and pushed through.</p> <p>You guys do! have authority over Delta-8 that is covered from Delta-9. And that's it.</p> <p>It's been a while.</p> <p>I hope all is well,</p>	James Hart International Cannabis Consultant Organic Chemist Botanist 903-456-4751
June 29, 2021	Email entitled, "Pre-proposal Statement of Inquiry WSR #21-11-036"	<p>To whomever it may concern:</p> <p>Please see attached opinion letters previously submitted to the LCB and Attorney General's office on 06/18/21 (with updated captions) for inclusion and consideration as part of the official comments.</p> <p>I am available if you have any questions. Thank you.</p> <p>[Both opinion letters attached as Exhibits 1 and 2]</p>	Clark Wu, Esq. BianchiBrandt Scottsdale, AZ
June 30, 2021	Email entitled, Notice of Preproposal Statement of Inquiry WSR #21-11-036"	<p>You can see below I have reached out to some of you previously.</p> <p>Delta 8 derived from Hemp is a very serious issue to Washington's licensed cannabis growers.</p> <p>I realize the board has protocols it must follow and this current pre-proposal statement (CR 101) is the first step to regulating non-cannabis generated compounds. I cannot stress how important it is for these non-cannabis compounds to be banned from Washington's legal cannabis market.</p> <p>Since this industry was founded back in 2013 we have witnessed many producers and processor's exit the market because they could not compete with the volume and resulting price from the "legal" market. If these Hemp derivatives are not banned we will see another round of production exits all because of pricing pressures of products that are not even part of our "legal" market. These pending exits have the potential to reach a catastrophe if we are consistently battling outside forces on price.</p>	Mark Greenshields AuricAG 206 226 1391

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Comments Received Concerning CR 101 filed as WSR #21-11-036 on May 12, 2021 and updated on July 7, 2021 as WSR #21-14-117

		<p>There is only one cannabis association in WA that I know of that currently supports Hemp derivatives and that is WACA (Washington CannaBusiness Association). I encourage you as much as humanly possible to look into why this is the case. You will find that Cleen Tech licenses their Hemp CBD to THC technology to Unicorn who just happens to be a founding member of WACA...are we really going to let another big business lobby ruin another industry? In this day and age?</p> <p>I urge you all to take control of this issue now just like the 12 other states have already done I listed below <i>[commenter referring to email dated June 15, 2021 entitled, "Please take immediate action on synthetic cannabinoids in the legal cannabis market."]</i></p>	
July 1, 2021	Email entitled "CR 101 Comment"	<p>The email in in opposition to the practice of allowing converted hemp CBD into our incredibly well regulated state cannabis industry. It is undermining the whole industry and in direct violation of 1502.</p> <p>This is a 'blackmarket practice' taking sometimes illegal, unregulated hemp product from other states and countries and laundering their product in our legal market through cannabinoid conversion.</p> <p>This practice is also disrupting the market price of legally grown WA cannabis and driving long standing, law abiding farms out of business.</p> <p>Please do something about hemp converted Delta 9 and enforce your own **Multiple** laws against out of state hemp material being allowed into our state's market.</p>	Sarah Hurley Canna LLC
July 1, 2021	Email entitled "CR 101"	<p>My farm has been directly impacted by the practice of allowing out of state hemp derived delta 9 material unlawfully into our tightly regulated 1502 system. I have seen my sales plummet and question even staying in this business.</p> <p>If these hemp derived delta 9 producers don't have to play by the rules and practices in place, why do I? Why do I need to pay production license fees and processing license fees? Why do I need 19 employees to produce a cannabis crop? Why should I pay for traceability? Too many 'why should I's' to mention.</p> <p>This practice of converting hemp product to delta 9 and being able to launder it in our state needs to be banned.</p>	Forrest Hurley, Hash Dog
July 2, 2021	Email entitled, WACA Feedback on CR 101 compounds other than delta-9"	<p>On behalf of WACA I wanted to submit the attached letter summarizing our feedback on the CR-101 establishing a new rule section that would allow the WSLCB to evaluate additives, solvents, ingredients, or compounds used in the production and processing of marijuana products other than Delta-9 tetrahydrocannabinol. It is our understanding that this CR-101 may be revised in the near future. These comments serve as our initial thoughts on all being discussed on this range of topics.</p>	Brooke Davies Boswell Consulting Christophersen Inc. 540-336-7465

ATTACHMENT A

Comments Received Concerning CR 101 filed as WSR #21-11-036 on May 12, 2021 and updated on July 7, 2021 as WSR #21-14-117

		<p>Please let us know if you have any questions. Have a great weekend!</p> <p>[Letter attached as Exhibit 3]</p>	
8/19/2021	Email entitled, "WSR 21-14-117"	<p>As the Youth Marijuana Prevention and Education Program coordinator at Public Health – Seattle & King County, I am writing with comments on the potential public health and youth prevention impacts of rulemaking regarding marijuana additives, solvents, ingredients, or compounds. Given the number and degree of unknown risks to public health from novel compounds entering the market, as well as the credible potential to increase youth access and appeal, LCB should uphold its current policy statement PS-21-01 that restricts genetically or chemically altered compounds from the licensed market.</p> <p>I deeply appreciate the two deliberative dialogues LCB has hosted on this topic. Clear public health concerns emerged from the expert panel, including:</p> <ul style="list-style-type: none"> • The unknown toxic and psychoactive effects of THC isomers, and what dosages could lead to poor outcomes, including if THC isomers would have differing effects on brain development than those known of delta-9 THC; • The lack of a standardized process to synthesize marijuana compounds of interest to the market, which presents - <ul style="list-style-type: none"> ○ Unknown hazardous exposure for employees producing products, ○ Unknown environmental hazard from the management of additives, solvents and byproducts related to production, and ○ Unknown consumer hazard from additives, solvents and byproducts remaining in the product at consumption; • The lack of adequate testing capacity to assure consumer safety, including the lack of compound standards to test by. <p>The panel also identified that synthesized THC is likely lower cost to produce than THC derived directly from marijuana plants. Before allowing synthesized compounds to the market, LCB should evaluate – in partnership with youth prevention – the effect of these compounds on market price. Tobacco control research has long established that price and youth use are directly related. Higher prices significantly reduce youth use (The Community Guide). Few youth in Washington report buying cannabis from licensed stores. However, the more popular sources of obtaining it from a friend or giving money to someone to purchase it (2018 Washington State Healthy Youth Survey Data Brief: Marijuana) are likely linked to the recreational market. Reductions in market price can therefore affect youth demand.</p> <p>Further youth prevention concern comes from how the marketing of new THC compounds could reduce perceived harm of cannabis use and increase community norms favorable to use. The Washington Health Care Authority identifies both of these as youth use risk factors (Programs & Practices for Youth Marijuana Use Prevention). A youth intern</p>	<p>Sarah Ross-Viles, MPH Youth Marijuana Prevention and Education Program Public Health - Seattle & King County</p>

ATTACHMENT A

Comments Received Concerning CR 101 filed as WSR #21-11-036 on May 12, 2021 and updated on July 7, 2021 as WSR #21-14-117

		<p>with Public Health recently completed a limited qualitative analysis of social media posts with a “delta8” hashtag. They identified claims around delta-8 products having “no side effects” and “no paranoia, less anxious feeling.” These are the same claims I have seen shared about these products, but it is significant that a teen identified them. Surveillance from the Healthy Youth Survey has found that many teens perceive little risk from regular marijuana use (2018 Washington State Healthy Youth Survey Data Brief: Marijuana). Products with claims of less harm in the marketplace could further decrease youth perception of risk and additionally increase community norms of tolerance, desirability and safety. Both of these changes would work against youth prevention.</p> <p>We cannot yet describe the hazards to producers and consumers of synthesized THC compounds, and allowing products with claims of less harm and lower pricing will likely affect youth use. Until we can identify and mitigate these hazards and ensure regulation in the market to reduce risk factors for youth use, LCB’s current policy statement on THC compounds protects public health. I urge you to maintain it.</p> <p>Thank you for your consideration of these comments and please contact me with any questions or discussion.</p>	
8/20/2021	Email entitled, “WACA Comments on CR 101 – Evaluating THC Compounds”	<p>Please find attached WACA's comments on the CR 101. Thank you so much for the opportunity to comment. Have a great weekend!</p> <p>[Letters attached as Exhibits 4 and 5]</p>	<p>Vicki Christophersen Christophersen Inc. www.christopherseninc.com 360.485.2026</p>

EXHIBIT 1



BianchiBrandt

6730 North Scottsdale Road, Suite 100
Scottsdale, Arizona 85253
O: 480.531.1800

June 18, 2021

Sent via E-Mail (rules@lcb.wa.gov)

Washington State Liquor and Cannabis Board
1025 Union Avenue SE
Olympia, WA 98504

Re: Closed Committee Hearing on Enhancement of Marijuana Products
Pre-Proposal Statement of Inquiry WSR #21-11-036

Dear Board Committee Members:

Our firm advises cannabis industry stakeholders on regulatory compliance across various markets and states. We submit this regulatory opinion to the Washington State Liquor and Cannabis Board (the “Board”) in advance of the Board’s closed session meeting on hemp-derived delta-9 tetrahydrocannabinol (“THC”) production to: (1) outline the legal basis for the production of hemp-derived delta-9 THC in processor facilities licensed by the Board; and (2) propose regulatory action that makes a meaningful distinction between “synthetic” and non-synthetic THC products in the state’s regulated market (*i.e.*, Spice and K2 versus hemp-derived THC).

I. Legal Basis for Enhancement of Marijuana Products

The process at issue involves two phases in a licensed processor facility: (1) the addition of hemp-derived cannabidiol (“CBD”) to marijuana products (*i.e.*, distillate) produced under the state’s regulated market to enhance the CBD concentration as authorized under R.C.W. § 69.50.324 (subject to W.A.C. § 314-55-109); and (2) the refinement of the enhanced marijuana product (within the threshold of W.A.C. § 314-55-095) by process of accelerated aging with an organic solvent to increase the delta-9 THC concentration of such product (collectively, the “Enhancement Process”).

The described process complies with all cannabis licensing and regulatory requirements as:

- All hemp-derived CBD isolate is lawfully sourced domestically, undergoes all required quality assurance and potency testing as required by W.A.C. § 314-55-109 (*i.e.*, potency, pesticides, heavy metals, and residual solvents) prior to purchase, and then entered into Washington State’s Traceability program, and;
- During the first phase, the CBD isolate is combined with existing marijuana products (*i.e.*, marijuana extract containing greater than 0.3%

delta-9 THC) legally produced by a licensed processor to enhance such products with CBD prior to processing, and the resulting product is (and remains) a marijuana product that contains more than 0.3% delta-9 THC;

- The marijuana product with enhanced CBD concentration is further refined in the second phase by a licensed processor, and the resulting (final) marijuana product also contains more than 0.3% delta-9 THC; and
- All marijuana products produced using the Enhancement Process are only offered for sale in Washington’s regulated marijuana market.

Because the end product—after phase one *and* two—contains more than .3% THC and meets the definition of “marijuana” under Washington law, *see* R.C.W. § 69.50.101(y), (uu), the resulting product after *each* phase is available for distribution in compliance with Washington law.

While we understand the Board might have concerns regarding oversight of this process, the Board can ensure complete compliance with the state’s cannabis program requirements since each phase must occur in licensed facilities. In summary, each phase of the Enhancement Process (*i.e.*, input, addition, and refinement) is authorized under Washington law, and licensed processors may engage in delta-9 production from hemp-derived CBD at duly authorized facilities.

II. Distinction between “Synthetic” and Non-Synthetic Marijuana Products

We understand that the Board is also considering implementing new rules to implement a process for assessing THC enhancement processes and prevent the development and sale of “synthetic” cannabinoid products. To that end, we hope to distinguish synthetic and non-synthetic cannabinoid products to the Board to explain why the Enhancement Process does not lead to the creation of any “synthetic” THC products.

As described, the entire Enhancement Process only utilizes cannabinoid inputs naturally occurring in plants (*i.e.*, delta-9 and CBD), and the resulting marijuana product primarily consists of delta-9 THC. In other words, the end-product is chemically identical to marijuana products produced directly from cannabis plants.

Importantly, the end product following the Enhancement Process does not contain any contaminants that are not already required to be tested for under W.A.C. § 314-55-102.

Synthetic THC production processes, on the other hand, create new non-naturally occurring compounds that do not contain delta-9 THC but mimic its effect on cannabinoid receptors in the brain. These are the types of compounds (*i.e.*, “spice,” K2, and bath salts) that regulators have historically prohibited in the protection of public health. Thus, what ultimately distinguishes these products is not only the production process, but the end result.

While the Enhancement Process utilizes traditional plant-based (or botanical) derived methodology (*i.e.*, input of natural plant extract and output is structurally identical at the molecular level) and accelerates the natural aging process of the existing cannabinoids with a marijuana product

without increased risk to the consumer, “synthetic” processes utilize two or more non-biological compounds in a controlled chemical reaction to create an unnatural end product that poses unknown health risks to the public.

Indeed, researchers at the Yale University School of Medicine have explained that:

- Synthetic cannabinoids are a collection of numerous laboratory chemicals (*i.e.*, not occurring in marijuana) that interact with the cannabinoid receptor in the brain to mimic marijuana;
- Synthetic cannabinoids are often more potent than compounds naturally occurring in marijuana because the synthetic chemical compounds bind more strongly to the brain’s cannabinoid receptors, as well as other receptors causing dangerous and unpredictable effects;
- Synthetic cannabinoids are dangerous chemicals with unpredictable composition and human toxicity that have not been evaluated in a controlled laboratory setting; and
- Common names for synthetic cannabinoids include Spice, K2, Moon Rocks, Angry Birds, Black mamba, Bombay Blue, Scooby Snax, and Yucatan.

However, none of these traits apply to resulting products from the Enhancement Process. *See* <https://library.medicine.yale.edu/blog/ten-facts-know-about-synthetic-cannabinoids>.

In light of this key distinction, the Board should define “synthetic cannabinoids” based on their “synthetic” origin. To that end, we propose the following definition of “synthetic cannabinoids” for the Board’s consideration:

“Synthetic cannabinoids” mean any substance designed to mimic the effects of a controlled substance which is created through an addition reaction in which two or more molecules are combined to form a larger one.

Licensed processors should continue to be permitted to develop processes that utilize regulated and naturally occurring CBD and THC in compliance with state law. Such a definition would address the Board’s health concerns and protect against the proliferation of non-naturally occurring chemicals that mimic delta-9 THC and pose a public health risk without stifling innovation in the industry.

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We hope that this letter sufficiently addressed the Board's concerns regarding the Enhancement Process and the legal basis for its continuance. Please let us know if the Board has any additional questions or concerns related to this topic, and we are happy to address the same.

Sincerely,

A handwritten signature in dark ink, appearing to be 'Clark Wu', written in a cursive style.

Clark Wu, Esq.
For the Firm

CC:

Rick Garza, Director (rick.garza@lcb.wa.gov)
Member David Postman (david.postman@lcb.wa.gov)
Member Ollie Garrett (ollie.garrett@lcb.wa.gov)
Member Russell Hauge (russell.hauge@lcb.wa.gov)
Justin Nordhorn, Policy and External Affairs Director (justin.nordhorn@lcb.wa.gov)
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Penny Allen, Esq. (Penny.allen@atg.wa.gov)

EXHIBIT 2



BianchiBrandt

6730 North Scottsdale Road, Suite 100
Scottsdale, Arizona 85253
O: 480.531.1800

June 18, 2021

Sent via Email (rules@lcb.wa.gov)

Bruce Turcott, Esq.
Penny Allen, Esq.
Office of the Attorney General
7141 Cleanwater Dr. SW
Olympia, WA 98501

Re: Policy Opinion on Hemp-Derived Delta-9 Conversion
Pre-Proposal Statement of Inquiry WSR #21-11-036

Dear Mr. Turcott and Ms. Allen:

Our firm advises cannabis industry stakeholders on regulatory compliance across various markets and states. We submit this policy opinion to the Washington State Office of the Attorney General (“A.G.’s Office”) in advance of the Washington State Liquor and Cannabis Board’s (the “Board”) closed session meeting on hemp-derived delta-9 tetrahydrocannabinol (“THC”) production in the state (the “Enhancement Process”).

The purpose of this correspondence is to: (1) outline the legal basis for the Board’s lack of authority to authorize any enforcement action or implement any temporary ban against the Enhancement Process; (2) remind the Board of its duty of neutrality and impartiality to industry stakeholders in Washington; and (3) articulate the public policy positions favoring the continuance of the Enhancement Process in compliance with state law.¹

I. The Board lacks the legal authority to take regulatory action because the Enhancement Process is legal under state law.

The Enhancement Process involves two phases in a licensed processor facility: (1) the addition of lawfully sourced hemp-derived CBD isolate to marijuana products (*i.e.*, marijuana extract) produced under the state’s regulated market to enhance the CBD concentration as authorized under R.C.W. § 69.50.324 (subject to W.A.C. § 314-55-109); and (2) the refinement of the enhanced marijuana product (within the threshold of W.A.C. § 314-55-095) by process of accelerated aging with an organic solvent to increase the delta-9 THC concentration of such product (visual below).

¹ This letter is submitted in conjunction with our Regulatory Opinion regarding the Closed Committee Hearing on Enhancement of Marijuana.

CBD isolate is tested and added to compliance system → CBD isolate added to delta-9 THC extract → combined delta-9 THC processed in a licensed facility → marijuana product available for distribution

Because the resulting product after phase one (and two) contains more than .3% THC and meets the definition of “marijuana” under Washington law, *see* R.C.W. §§ 69.50.101(y), (uu), license processors may legally continue to refine the marijuana in compliance with state law. Yet during the June 16, 2021, Special Board Caucus on the Enhancement Process (the “Caucus”), Board Member Russ Haugh repeatedly asked, “Why are we not pursuing enforcement action” against licensed processors utilizing the Enhancement Process?

Board Member Haugh relies on R.C.W. § 69.50.326 (the “Additive Statute”) for the mistaken proposition that Washington’s CBD additive statute prohibits the Enhancement Process because it only authorizes the addition of CBD to marijuana products and nothing more. In doing so, he acknowledges that the addition of CBD (tested in compliance with W.A.C. § 314-55-109) to delta-9 THC produced by licensed processors in Washington is *legal*, but refuses to recognize that licensed processors may further legally process the resulting product.

However, as the Board’s Policy Affairs and Outreach Director Justin Nordhorn recognized during the Caucus, the Additive Statute *does not* clearly prohibit the Enhancement Process as Member Haugh alleged, and that the process was likely not contemplated by the legislature when it was enacted. So contrary to Member Hugh’s assertion, the Board does not have authority to require the agency to engage in any enforcement action.

Since the Enhancement Process is legal under state law, the better approach is for the Board to work with industry stakeholders to properly regulate the Enhancement Process by engaging in rulemaking under R.C.W. § 69.50.324.²

Indeed, the Board may only prohibit “the use of any type of additive,³ solvent, ingredient, or compound in the production and processing of marijuana products . . . when the board determines, following consultation with the department of health [or other appropriate authority] . . . that the [a]dditive, solvent, ingredient, or compound may pose a risk to public health or youth access.” *Id.* at § 69.50.324 (m). No such consultation has occurred, and no such risk has been substantiated, meaning any enforcement action by the Board is premature.

Importantly, if the Board decides to proceed with any enforcement action (or ban), then it is stepping into the realm of the state legislature and exceeding its statutory authority under the Uniform Controlled Substances Act (the “Act”). As Board Chair David Postman acknowledged during the Caucus—*legislative action* in 2022 is required.

The important question then is: why the urgency? It appears that the Board is being pressed to act on behalf of marijuana producers in this state who are threatened by the competition. *See*

² The Board already announced rulemaking regarding the Enhancement Process during its May 12, 2021 CR 101 Memorandum.

³ The “additives” and “compounds” at issue are CBD and delta-9; the same naturally occurring cannabinoids in the cannabis plant that the Board previously authorized for patient consumption under the state’s medical-marijuana program.

<https://mjbizdaily.com/washington-marijuana-growers-fear-hemp-derived-thc-competition/>. But it is not the place of the Board to regulate competition or interfere with free-market enterprise.

II. The Board must be neutral and impartial when exercising its regulatory authority to avoid the appearance of impropriety.

The Board cannot provide preferential treatment to certain segments of the industry while effectively attempting to curtail others without the legitimate legal authority to do so. The marijuana statutes require the Board to maintain the spirit of the Act, including obligations of neutrality and impartiality.

Indeed, the legislative intent of statutes like R.C.W. § 69.50.351 is to prevent Members of the Board from taking any special interests (financial or otherwise) in the industry. When state agencies come to be dominated and moved to action by the (minor constituency) interests they regulate and not the public interest (detailed below)—the inevitable question of regulatory capture arises.

While Member Hauge acknowledged during the Caucus that the Board had been “told many times” it wasn’t their job “to protect the market,” he continued to make concerning statements on behalf of marijuana products about how the Enhancement Process:

- displaced the delta-9 compound as produced by legal growers;
- “puts in jeopardy our future plans” for increasing equity;
- Threatened the viability of some business structures and sizes; and
- Cannot be “bat around ourselves for a period of weeks or months.”

In other words, Member Hauge, who is taking the lead in the upcoming closed Board session regarding the Enhancement Process, wants to eviscerate it here and now on behalf of the special interests of the minority producer group. The Board must take action to address this conflict to ensure that it remains neutral and impartial in accordance with the spirit of the Act.

However, as detailed below, public policy in Washington weighs in favor of the continuance of the Enhancement Process.

III. Public policy regarding competition, social equity, and compliance favor the continuance of the Enhancement Process.

The Board should not fear innovation. If the Board moves forward with any enforcement action, then it is going against tradition and the long history of creative market enterprise that has made Washington’s marijuana industry flourish into one of the most successful programs in the nation.

Contrary to Member Hauge’s arguments (each addressed in turn), the Enhancement Process will improve equity in this state, promote market competition, and enable a more robust marijuana program:

- **Disrupt Production Limits.** Special interest groups lobbying on behalf of producers claim the Enhancement Process renders the state’s canopy requirements and producer tier licensing obsolete. But these same groups are simultaneously utilizing an innovative process called “auto-flowering” to increase their production output and exceed the same canopy requirements by having up to three harvests in a season. These techniques, like the Enhancement Process, however, are not intended to bypass regulatory compliance; rather, it is to promote and facilitate more efficient systems to create quality products for Washington’s consumers.
- **Promote Social Equity.** The Enhancement Process benefits social equity license holders (and the aims of R.C.W. §§ 69.50.335, 336) by offering more efficient and sustainable systems with lower overhead costs to provide marijuana products. This levels the playing field. The Enhancement Process allows social equity groups to compete against larger players and compete for their share of the market.
- **Encourage Compliance.** By allowing the Enhancement Process to continue in the regulated market under the Board’s supervision, the Board ensures that all marijuana products are safely produced in compliance with all state requirements during each step of the process. In doing so, the Board also encourages non-licensed operators to enter the regulated market (instead of selling in other markets) and ensures that state continues to benefit from marijuana taxes at the point-of-sale.

Notably, the above is not an exhaustive list. There are many other benefits from licensed processors utilizing the Enhancement Process beyond efficiency, equity, and compliance (*i.e.*, environmental benefits from water conservation, improving soil, CO2 sequestering, etc.).

Board Chair Postman raised an important point during the Caucus, namely that “the industry clearly is ahead of regulators in coming up with new things.” This is significant because Washington was the second state to legalize, and marijuana code divisions are outdated and no longer reflect the reality of operations. But the industry should not be penalized if innovation outsteps legislation.

Importantly, we understand that efforts are being undertaken by industry stakeholders to address these issues. In the next legislative session, bills will be introduced to modernize the marijuana statutes and codes in this state, with the aim of preparing a complete overhaul to the state’s program that touches upon the concerns echoed by the Board. In light of the impending legislative agenda, the Board should reserve taking any action that might exceed the scope of their authority.

Otherwise, industry groups will likely pursue emergency relief against the state to protect against the state’s regulatory taking of their rights; rights that the Board reaffirmed in its April 28, 2021, Policy Statement on THC Compounds other than Delta-9, as clarified on May 03, 2021, refraining from enforcement action. Indeed, Director Norton recognized that these statements “may have impaired” the ability of the Board to act against any processor engaged in the Enhancement Process.

In conclusion, public policy and Washington law favor the continuance of the Enhancement Process in the state’s regulated marijuana market, to take place in licensed processor facilities, and under the purview of the Board.

Please let me know if you have any questions or concerns regarding this policy opinion. We are happy to address the same and welcome an open dialogue with both the A.G.'s Office and the Board. Thank you for your time and consideration of this opinion.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Clark Wu', written in a cursive style.

Clark Wu, Esq.
For the Firm

CC:

Rick Garza, Director (rick.garza@lcb.wa.gov)
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EXHIBIT 3



July 2, 2021

Washington CannaBusiness Association
PO Box 9912
Seattle, WA 98101

Kathy Hoffman
Legal and Policy Manager
Washington State Liquor and Cannabis Board

The Washington CannaBusiness Association (WACA) represents Washington's licensed and regulated cannabis and hemp businesses. As the most established trade association for cannabis and hemp businesses in the state we are committed to upholding a safe, quality-controlled, well-regulated adult use system that keeps cannabis out of the hands of minors. We value our collaborative relationship with the WSLCB and appreciate the opportunity to work together and to provide feedback on the CR-101 establishing a new rule section that would allow the WSLCB to evaluate additives, solvents, ingredients, or compounds used in the production and processing of marijuana products other than Delta-9 tetrahydrocannabinol. It is our understanding that this CR-101 may be revised. These comments serve as our initial thoughts on all being discussed on this range of topics.

WACA is a democratically run organization. We represent all aspects of the industry including producers, processors, retailers, transporters and ancillary businesses. Our members have been engaged in a robust discussion and educational process on this and other issues the industry is facing as we prepare for the ten-year anniversary of the passage of Initiative 502. When we are faced with making a decision regarding a position for the association, we convene and encourage discussion and then provide our members an opportunity to vote on potential position statements. Based on member input – conducted via online surveys where each member is allocated a single vote on this and other issues - regarding hemp-derived THC, whether Delta 8, Delta 9, or even Delta 10, WACA's position is that all forms of THC (with potency of 0.3% and higher), regardless of the source, should be regulated in the adult use market. The regulations should continue to allow all forms of THC derived from the cannabis

plant (including hemp) and require testing for safety and apply the current limit of 10mg per serving. Artificial, man-made synthetic cannabinoids such as K2 and Spice should be strictly prohibited. The most fundamental priority of regulation governing potential intoxicants from the cannabis plant should be public health and safety.

It is helpful to understand the origins of statutory restrictions of “synthetic” cannabinoids, cathinones, and methcathinones (RCW 69.50.204). WACA was involved in the legislation that resulted in this statutory provision in 2015. Cathinones and methcathinones are stimulants with methamphetamine-like effects. Cathinone derivatives are commonly known as "bath salts." Synthetic cathinone products (“bath salts”) began to appear in convenience stores in the mid-2000s, containing substances that were not specifically banned by state or federal drug laws. Similarly, synthetic cannabinoids commonly referred to as Spice and K2 appeared on the market in the early 2000s and grew rapidly in popularity because there were no age-buying restrictions. A synthetic cannabinoid is a collection of numerous laboratory chemicals that interact with the cannabinoid receptor in the brain to mimic the effects of THC that is undetectable to law enforcement testing. Young adults and youth consume the majority of these drugs that are often marketed and sold over the internet or at small retail outlets.

In 2011, in response to this public vulnerability to these destructive products, the DEA used emergency protocols to place five synthetic cannabinoids on the Schedule I Controlled Substances list. Soon after, they added five synthetic cathinones. In 2012, President Obama signed the [Synthetic Drug Abuse Prevention Act](#), permanently placing many synthetic cathinones and cannabinoids permanently within Schedule I of the Controlled Substances Act. By December of 2012, 45 states banned these types of garage-chemistry synthetic drugs. In Washington State, synthetic cannabinoids and cathinones were banned by [action of the State Board of Pharmacy](#) in December of 2010. This action was in response to what was happening at the federal level and events here in Washington [Seattle man arrested over NYC ‘bath salts’ drug ring | The Seattle Times](#).

In 2015, Senator Mike Padden introduced [SB 5673](#) which made making, selling, or trying to sell synthetic cannabinoid or cathinone-containing products a violation of Washington's Consumer Protection Act (CPA). The bill was in direct response to the [problems that arose around the use of bath salts in these illicit products](#). Ultimately the language from SB 5673 was rolled into [HB 2136](#) (Part XII – Section 1201) making selling, making, or trying to sell synthetic cannabinoids a violation of the CPA. HB 2136 passed the legislature and went into effect on July 1, 2015.

HB 2136 also updated the language in [RCW 69.50.204](#) (the controlled substances act) to further define synthetic cannabinoids to include the below language:

- That is chemically synthesized and either:
 - (I) Has been demonstrated to have binding activity at one or more cannabinoid receptors; or
 - (II) Is a chemical analog or isomer of a compound that has been demonstrated to have binding activity at one or more cannabinoid receptors

At no point during the development of this critical public safety issue and ultimate statutory provision was there discussion of cannabinoids sourced from the cannabis sativa L plant. The concern from lawmakers and regulators was always about truly synthetic, man-made products that “mimic” the effects of other drugs (legal or not) that were specifically created to avoid law enforcement detection, public safety measures, and age restrictions.

Following the passage of the Farm Bill by Congress, we have seen an explosion of unregulated Delta-8 products. These products are intoxicants that are available at convenience stores, gas stations and on the internet. This presents an urgent situation that must be addressed. One of the key stated goals of Initiative 502 was to ensure that adult-use cannabis products were brought into a fully regulated system that keeps products out of the hands of children. It is critical that the regulated system fully captures intoxicants that are derived from the cannabis plant in all its forms. Doing so represents the best and most consistent approach to preventing continued unregulated, unsafe sales of cannabis-derived intoxicants that are occurring outside the regulated market.

As the trend of adult-use regulation increases nationally and globally, what we learn about the cannabis plant, and innovations for its use, will increase. We have seen one such example in the explosion of CBD-only products, now ubiquitous everywhere you shop. The regulatory priority should be on incorporating all cannabis into the regulated system in a safe manner, this includes all forms of THC whether derived from cannabis grown for hemp or cannabis grown within the regulated marketplace. All products should be subject to rigorous quality control testing standards.

We share the concern of the WSLCB regarding truly synthetic versions of THC that are created in a lab, similar to K2 or Spice as described above. It is critical that stringent regulation helps to identify, isolate and prohibit all forms of these dangerous, truly synthetic products. In doing so, the regulations acknowledge products derived from the natural cannabis plant, including intoxicants such as THC, as long as they are tested and proven safe.

We recommend that the rules clearly define the term synthetic to distinguish between truly synthetic man-made cannabinoids designed to mimic and be hidden from detection, and cannabinoids derived from the cannabis sativa L plant.

WACA members participated in the Deliberative Dialogue held by the WSLCB on June 3rd and found that it was incredibly helpful and productive. Our members believe in and are eager to participate in a respectful and productive dialogue. We appreciate the WSLCB staff and leadership working to center this discussion in that manner. It is unfortunate to see some stakeholders making outrageous accusations and assuming motives of industry members. We remain committed to being respectful, even in disagreement, and to collaborate on productive rules development on this and all other important issues to this sector.

We look forward to continued discussions.

Sincerely,
Vicki Christophersen
Executive Director

EXHIBIT 4



WACA Members 2021

Retailers

Apex Cannabis	Spokane
Piece of Mind South Hill	Spokane
Sensibility Inc.	Bremerton
Sweet Jane	Gig Harbor
The Gallery	Tacoma
The Happy Crop Shoppe	Wenatchee
The Herbery	Vancouver
The Slow Burn	Union Gap
The Top Shelf	Airway Heights
Token Herb	Eastsound
Uncle Ike's	Seattle
Zips Cannabis	Tacoma

Producers/Processors

Atlas Global MFG	Processor		Raymond
BC Labs	Producer/Processor	Tier 2	Port Angeles
Bellevue Cannabis	Producer/Processor	Tier 1	Bellevue
Blue Roots	Producer/Processor	Tier 2	Airway Heights
Buddy Boy Farms	Producer/Processor	Tier 3	Ford
Cannaseur's Choice	Producer/Processor	Tier 3	Renton
Cedar Creek Cannabis	Producer/Processor	Tier 2	Vancouver
Central Business District	Processor		Port Townsend
Clarity Farms	Producer/Processor	Tier 3	Monroe
Craft Elixirs	Processor		Seattle
Doc & Yeti Urban Farms	Producer/Processor	Tier 2	Tumwater
Evergreen Herbal	Processor		Seattle
Experience Organics	Producer/Processor	Tier 3	Benton City
Fairwinds	Producer/Processor	Tier 2	Vancouver
Grow Op Farms	Producer/Processor	Tier 3	Spokane Valley
Harmony Farms	Producer/Processor	Tier 3	Lacey
Hygge Farms	Producer/Processor	Tier 1	Springdale
Gold Leaf Gardens	Producer/Processor	Tier 3	Benton City
Noble Farms	Producer/Processor	Tier 3	Tacoma
Northwest 7 Point	Producer/Processor	Tier 1	Spokane Valley
NWCS	Producer/Processor	Tier 3	Elma
Olympus Horticulture/	Producer/Processor	Tier 3	Port Angeles

Orgrow	Producer/Processor	Tier 3	Moxee
Pacific Northwest Consulting	Producer/Processor	Tier 1	Woodland
Quincy Green	Producer/Processor	Tier 3	Quincy

Producers/Processors (continued)

Rio Nine Eleven	Producer	Tier 3	Warden
Sunshine Farming	Producer/Processor	Tier 3	Vancouver
The Heights Conservatory	Producer	Tier 3	Moses Lake
The High Road	Producer	Tier 2	Deer Park
The Werc Shop	Processor		Seattle
TrueAeroGrow	Producer/Processor	Tier 3	Spokane
Two Heads Co LLC	Producer/Processor	Tier 1	Raymond
Unicorn Brands	Processor		Raymond

Transporters

Cannaport	Vancouver
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Ancillary

4 Corners Financial Forensics
AMIA
Atlas Global Technologies
Belcourt Law
Blue Cascade Orchards
Boveda
Carroll Biddle & Bilanko PLLC
Chris Marr Government Affairs
cleen:hemp
cleen:tech
Columbia Distributing
Cultiva Law
Dauntless
Garvey Schubert Barer
Green Light Law Group
HUB International
Industrial Source
Miller Nash Graham & Dunn
Monson Fruit Company
Numerica Credit Union
Paragon Payroll
PNW Regional Strategies
Portco Packaging
Salal Credit Union
Simplifya
Yellow Rose Dream



August 20th, 2021

Washington CannaBusiness Association
PO Box 9912
Seattle, WA 98101

Kathy Hoffman
Legal and Policy Manager
Washington State Liquor and Cannabis Board

The Washington CannaBusiness Association (WACA) represents Washington's licensed and regulated cannabis and hemp businesses. As the most established trade association for cannabis and hemp businesses in the state we are committed to upholding a safe, quality-controlled, well-regulated adult use system that keeps cannabis out of the hands of minors. We value our collaborative relationship with the WSLCB and appreciate the opportunity to work together and to provide feedback on the CR-101 evaluating THC compounds.

WACA is a democratically run organization. We represent all aspects of the industry including producers, processors, retailers, transporters, and ancillary businesses. For better clarity on who is part of our organization, we have attached a list of our members to this letter. Our members have been engaged in a robust discussion and educational process on this and other issues the industry is facing as we prepare for the ten-year anniversary of the passage of Initiative 502. When we are faced with making a decision regarding a position for the association, we convene and encourage discussion and then provide our members an opportunity to vote on potential position statements. As with any democracy, our members represent various backgrounds, interests, and perspectives.

WACA's policy positions are informed exclusively from member input – conducted via robust debate and confirmed through online surveys where each member is allocated a single vote, regardless of member size. Regarding hemp-derived THC, whether Delta 8, Delta 9, Delta 10, or any future now unknown derivatives, WACA's position is that all forms of THC (with potency of 0.3% and higher), regardless of the source, should be regulated in the adult use market. A significant majority of our members, 64.52%, voted that the statute should be amended to

allow hemp Hemp-derived THC (e.g., D8, D9, D10 and future unknown derivatives) in the regulated market with testing required for safety and transparent labeling. The statute should be clarified to allow all forms of THC derived from the cannabis plant (which includes hemp) and require transparency of the source, testing for safety and purity, with the current limit of 10mg per serving.

Additionally, 83.37% of our members believe that statute should be amended by the Legislature to clarify that all types of THC (e.g., D8, D9, D10 and future unknown derivatives), whether derived from adult use cannabis or hemp, are only allowed to be manufactured and sold within the legal regulated marketplace and are expressly not allowed in the unregulated market (convenience stores, vape shops, etc.).

It is important to note that the statutes adopted through Initiative 502 and subsequent legislative changes did not contemplate the discovery and use of cannabinoids being seen today and the potentially hundreds of cannabinoids that could come in the future. It is not surprising that this wasn't contemplated. What we know now we didn't know then, and what we will know in ten years we certainly don't know now. It is critical that the statute and regulatory framework be drafted to allow for evolution in the market while remaining steadfastly focused on safety and transparency.

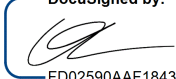
Following the passage of the Farm Bill by Congress, there has been an explosion of unregulated hemp-derived Delta-8 THC products. These products are intoxicants that are available at WSLCB regulated vapor stores, convenience stores, gas stations and on the internet. They are marketed without any adherence to milligram limits, purity, quality, or other safety standards including presence of unknown compounds. They are accessible online and in-person for potential purchase by a minor, a striking proliferation that is at odds with the leading compliance rate of regulated cannabis stores. This presents an urgent situation that must be addressed – not only is Delta-8 an intoxicant derived from the cannabis plant, but these products often test “hot” for significant amounts of Delta-9 THC. One of the key stated goals of Initiative 502 was to ensure that adult-use cannabis products were brought into a fully regulated system that keeps products out of the hands of children. It is worth noting that in a recent enforcement update sent by the WSLCB stated that the initial 2021, legal checks for underage transactions showed cannabis sales increased from a compliance rate of 95% in 2019 to 96% in 2021. It is critical that the regulated system fully captures intoxicants that are derived from the cannabis plant in all its forms. Doing so represents the best and most consistent approach to preventing continued unregulated, unsafe sales of cannabis-derived intoxicants that are occurring outside the regulated market.

This issue has been before the agency for several months now and we have heard consistently from the WSLCB and other agencies that the current statute limits WSLCB authority in this area and that there needs to be changes to current law to create clarity. WACA members believe that it is appropriate to first address the underlying statutory framework before proceeding with rulemaking. Regulatory certainty and predictability are fundamental principles that all regulated businesses strive for. Before moving forward with rules, the agency and the industry should work together in 2022 to update the statutory framework to inform the direction of rulemaking moving forward. Collaboration on a solid statutory framework and strong quality control testing rules should be the focus.

The most urgent matter before the WSLCB at this time is the as yet adopted quality assurance testing requirements. While there are strict regulations regarding adult use products such as processing standards and pesticide use, the absence of testing requirements means that there is no firm assurance of safety for consumers. Good actors in the industry voluntarily conduct testing to prove their products are safe, but not all industry members do so. The adoption of these standards must be the foundation of a safe adult use system. 87.10% of our members support mandatory testing standards for heavy metals, pesticides, and byproducts/residual solvents/unknown compounds for all cannabis products sold in the regulated market in order to align our state with other legal cannabis markets.

WACA members participated in the Deliberative Dialogue held by the WSLCB on June 3rd and July 20th and found both incredibly helpful and productive. Our members believe in and are eager to participate in a respectful and productive dialogue and are always desirous of collaboration toward rigorous regulations grounded in the public interest of safety. We appreciate the WSLCB staff and leadership working to center this discussion in that manner.

We look forward to continued discussions.

DocuSigned by:

FD02590AAF1843F...

Sincerely,

Vicki Christophersen

Executive Director

ATTACHMENT B

THC Compound Evaluation Draft Conceptual Rules L&L – Attendance Roster & Chat 9/9/2021

Aaron Pickus	Dylan Summers	PVP
AJ Sanders	Elena Ozturk	Richard Uri
Alexis Hartwell Gobeske	Gregory Foster	Robyn
Andrea Golan	<i>Samantha Guter</i>	Ron Lewis
Arian Roman	<i>Susan Harrell</i>	Sarah Ross-Viles
Ashley Eigenman	Ian Eisenberg	Ryan Sevigny
<i>Tamara Barger</i>	Jenn Mohr	Sam Hecker
Becca Burghardi	Jennifer Gosar	Shawn DeNae
Beth Cantrell	Jeremy Moberg	Matt Shepard-Koningsor
<i>Joshua Bolender</i>	Jim MacRae	Grant Smith
Jay Burns	Keith Boyce	Christine Steele
Brad Douglass	Kent Haehl	Tania Sasaki
Christine Dunn	Alyssa Kirlin	Tom
<i>Bruce Turcott</i>	<i>Ashley Lam</i>	Trillium Swanson
Bryant Gilcrease	<i>Richard Lee</i>	Wendy Hull
Caitlein Ryan	Lindsay	Will
Chris Bradley	LM	<i>John Wilson</i>
Trevor Christensen	Lukas (Luke) Hunter	<i>Robert DeSpain</i>
Christine Dunn	Maranda Davis	<i>Katherine Hoffman</i>
Peter Clodfelter	Christine Masse	<i>Jeff Kildahl</i>
Steven Crowley	Micah Sherman	<i>Audrey Vasek</i>
Daniel (DJ) Comet	Michael Carter	<i>Tierney Hamilton-Steele</i>
Daniela Bernhard	Gabriel Picard	
Drew Davis	Samantha Pskowski	

[9:14 AM] Ron Lewis

I am a 5th generation farmer in North Central Washington. We began growing Hemp in 2019, and have a crop in the ground this year. In My Opinion: If Delta 8 THC production is allowed it is a win win win (4 x win) for Hemp Producers, Marijuana Producers, Consumers and the State of Washington.

[9:15 AM] Gregory Foster (@CannObserv) (Guest)

Cannabis Observer is recording audio of this event, and we've begun gathering meeting materials here: <https://cannabis.observer/events/wslcb-listen-and-learn-forum-thc-september-9-2021/>

[9:15 AM] Brad Douglass (Guest)

Brad Douglass, The Werc Shop

[9:15 AM] Ron Lewis

Ron Lewis - Baumgardner Farms

[9:15 AM] Drew Davis (Guest)

Drew Davis Seattle Marijuana Co

[9:15 AM] Thomas Hubbell

Jay Burns. Lab Director Treeline Analytics

[9:15 AM] Becca Burghardi

Becca Burghardi, NWCS

[9:15 AM] Beth (Guest)

I am Beth Cantrell with Confidence Analytics

[9:15 AM] Jennifer Gosar

My name is Jennifer Gosar, Cascade Regional YMPEP Coordinator for CHOICE Regional Health Network

[9:15 AM] Caitlein Ryan (Guest)

Good morning, Catlein Ryan, Interim Executive Director of The Cannabis Alliance.

Caitlein.ryan@thecannabisalliance.us

[9:16 AM] Steele, Christine (HCA)

Christine Steele Health Care Authority

[9:16 AM] Jenn Mohr (Guest)

Jennifer Mohr. Quality and Compliance Manager, Green Revolution

[9:16 AM] Alexis Gobeske (Guest)

Alexis Hartwell Gobeske with Dynamic Law Group- representing cannabis licensees

[9:16 AM] Kildahl, Jeff (LCB)

Jeff Kildahl, Policy and Rules Coordinator, Washington State Liquor and Cannabis Board

[9:16 AM] Pskowski, Samantha L (SBOH)
Sam Pskowski, Washington State Board of Health

[9:16 AM] Luke (Guest)
Lukas S. Hunter with Harmony Farms

[9:16 AM] Chris Bradley
Chris Bradley Noble Farms

[9:16 AM] Shawn DeNae
Shawn DeNae - Washington Bud Company - Board member WA Sun & Craft Asso

[9:16 AM] Sam (Guest)
Sam Hecker, Cultivar Farms

[9:16 AM] Richard Uri
Richard Uri, San Juan County Program Coordinator

[9:16 AM] Wendy (Guest)
Wendy Hull, Fairwinds

[9:16 AM] Michael Carter (Guest)
Michael Carter Sativa Magazine

[9:16 AM] Daniel Comet
I am DJ Comet, Sr. Intel Analyst for Arkansas Tobacco/Alcohol/Medical Marijuana

[9:16 AM] Bryant Gilcrease
I'm Bryant Gilcrease, Community Engagement Manager for FMS Global Strategies

[9:17 AM] Daniela Bernhard (Guest)
Daniela Bernhard, Uncle Ike's Pot Shops

[9:17 AM] Vasek, Audrey (LCB)
Audrey Vasek, LCB Policy and Rules Coordinator

[9:17 AM] Dylan Summers
Dylan Summers, Lazarus Naturals, Board member - IHEMPAWA

[9:17 AM] AJ Sanders
AJ Sanders, Spokane Regional Health District - Youth Cannabis Prevention and Education Regional Coordinator

[9:17 AM] Guter, Samantha (LCB)

Sam Guter, Communications Consultant, WA State Liquor and Cannabis Board

[9:17 AM] Wilson, John R (LCB)

John Wilson -WSLCB Marijuana Enforcement and Education Unit.

[9:17 AM] Ron Lewis

IF Delta 8 Production is not allowed (I hope it is)... BUT... If it is not,... HEN.... I hope it will....Allow Marijuana Processors to purchase Hemp for the sole purpose of EXTRACTING BOTH — putting both together in the Extraction Chamber to arrive at a natural derived concentrate with high THC from the Marijuana and high CBD from the Hemp. This is NOT a Delta 8 conversion, but rather a useful way to combine the benefits for both Hemp and Marijuana together.

[9:17 AM] Jim MacRae (Guest)

Jim MacRae - Straight Line Analytics

[9:17 AM] Clodfelter, Peter

Peter Clodfelter, staff to House Office of Program Research (WA Leg)

[9:18 AM] Christine Dunn (Guest)

Christine Dunn, Clallam County HHS, Olympic Region YMPEP

[9:18 AM] Elena Ozturk

Elena Ozturk, Tobacco, Vape, and Youth Cannabis Prevention, El Centro de la Raza, Seattle

[9:18 AM] Jeremy Moberg

Jeremy Moberg Cannasol Farms

[9:20 AM] AJ Sanders

Recommendation to change marijuana to cannabis

[9:20 AM] Ron Lewis

I support the new WAC on its surface (314-44-460(1))

[9:21 AM] Jennifer Gosar

I agree with AJ in suggesting the change from marijuana to cannabis

[9:21 AM] Jeremy Moberg

delete "and"

[9:22 AM] Micah Sherman - Raven (Guest)

Is the purpose to evaluate or to evaluate and potentially prohibit? Is it useful to include the intent to limit or restrict inputs in the purpose and scope?

[9:23 AM] Shawn DeNae

is the Purpose and Scope's intentions to create a pathway for converted cannabinoids into the system or not?

[9:23 AM] Ron Lewis

yes... strike "and"

[9:23 AM] Chris Girard (Guest)

I do not believe the LCB should restrict utilizing any cannabinoid in the production of Cannabis products

[9:25 AM] Shawn DeNae

Strike 'and' so it reads compounds used in the production...

[9:26 AM] Chris Girard (Guest)

I do believe that dangerous additives should be regulated, but I am concerned about the breadth of the language, and it being used to restrict cannabinoids.

[9:28 AM] Kent Haehl

Catalysts and re-agents should be separated. As a catalyst does not remain in the final product

[9:28 AM] Gregory Foster (@CannObserv) (Guest)

For reference, here is the draft conceptual rule text under discussion:

https://lcb.wa.gov/sites/default/files/publications/temp_links/InviteListenandLearnTHCCompoundsFinal.docx.pdf

[9:29 AM] Brad Douglass (Guest)

Question regarding the definition of "ingredient". Is the intention to include components of natural mixtures as well as intentional mixtures in this definition of ingredient?

[9:30 AM] Jeremy Moberg

Language like "reasonably be expected" or "otherwise effecting" is too general for definitions. Additive should be more concisely defined such as "anything added to a product"

[9:30 AM] Jim MacRae (Guest)

Audio can be flaky on TEAMS for those using non-MSoft browsers

[9:30 AM] Chris Girard (Guest)

Just to clarify, Hemp, being distinguished from Marijuana, would be a "non-marijuana additive"?

[9:31 AM] Kent Haehl

Can the WSLCB use the approved list for the food industry?

[9:31 AM] Brad Douglass (Guest)

Sounds good!

[9:31 AM] Caitlein Ryan (Guest)

"non-marijuana" gets tricky when there are so many questions regarding how or if "hemp" products outside the i502 system are allowed. It would be great to have definitions that delineate cannabinoids that come from inside the i502 system versus the hemp industry.

[9:31 AM] Ron Lewis

I hope you will make consideration for the USDA Rule that is currently in effect concerning Hemp Growers. IF a Hemp Grower's Hemp test result is over the allowed 0.3% THC limit (hot Hemp)....THEN the USDA and WSDA Hemp Program allows the Hemp Grower to grind up plants into a "mix" and offer to sale to a Processor (?).

[9:32 AM] Chris Girard (Guest)

^This

[9:32 AM] Kent Haehl

An ingredient or additive should be restricted only to what remains in the final product.

[9:32 AM] Drew Davis (Guest)

Agree^

[9:33 AM] Luke (Guest)

For section 2,a I think adding the text "additive means any substance the use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the somatic and psychological characteristics of any marijuana product on the consumer. Adding the text "somatic and psychological" I believe is more accurate.

[9:33 AM] Kent Haehl

Approved solvent list from the Food Industry

[9:33 AM] Kent Haehl

These products are known to be safe

[9:34 AM] Shawn DeNae

Additive should be defined as 'anything added to a product' vs additives that otherwise affect the characteristics..

[9:34 AM] Jeremy Moberg

Will synthetic be defined here.

[9:36 AM] Luke (Guest)

Amending the text in, 2,d: to read "Non-marijuana additive" means a substance or a group of substances that are derived from a source other than the **cannabis sativa plant**. cannabis is not defined in statute, however when referencing the "cannabis sativa plant" we are discussing the family of plants we use in our products and seems it would be adaptable with rule changes down the road.

[9:36 AM] Drew Davis (Guest)

I agree with Caitlein Ryan, Delta-8 isn't subject to all of the same restrictions as actual marijuana plants at this time, and can be imported from out of state which is damaging to in state growers of marijuana and hemp alike. If delta-8 is to be allowed, it needs to be regulated on equal footing as marijuana and it should be required on product labeling if the THC isn't directly marijuana derived, or else your state marijuana growers will find their market crashing around them with an less regulated market driving prices considerably down.

[9:37 AM] Micah Sherman - Raven (Guest)
Agreed with Shawn.

[9:39 AM] Kent Haehl
Agree non-MJ should be non-plant based.

[9:39 AM] Ron Lewis
yes,... label Delta 8 synthetic,... some consumers will care, others will not,... and it will give i502 Growers a fair advantage when marketing their product(s)

[9:40 AM] Shawn DeNae
Add the definition of synthetic here.

[9:40 AM] Chris Girard (Guest)
But Ron Lewis its not a synthetic, so why mislabel? AN Isomer is not a synthetic, especially if the plant can convert to that isomer naturally.

[9:40 AM] Jeremy Moberg
Given that synthetics are not allowed by rule, it seems important that we define it somewhere in rule. There was a fair amount of debate regarding the term that seemed to prolong and confuse the implementation of the standing rules regarding synthetics.

[9:40 AM] Vasek, Audrey (LCB)
Hi all, just a reminder that if you would like to speak out loud to give your feedback, please raise your hand and we will try to un-mute you. If we have un-muted you and you are having difficulty un-muting/accessing the mic, we apologize for the technical difficulties. MS Teams often works best with a Windows web browser. Another possibility for troubleshooting--please try plugging in a external headset with a microphone.

[9:42 AM] Ron Lewis
PERHAPS.... The WSLCB could work with the WSDA and USDA Hemp Programs to offer relief for Hemp Growers who accidentally (unavoidable outdoor sometimes).... grow "hot" Hemp..... and provide a way for the i502 Growers / Processors to buy that hot Hemp.

[9:43 AM] Shawn DeNae
Synthetic: (from a simple google search)

1. (of a substance) made by chemical synthesis, especially to imitate a natural product.

"synthetic rubber"

[9:43 AM] Ron Lewis

Synthetically Derived is the conversion of CBD to THC... Naturally Derived THC is THC (and compounds) occurring naturally in the plants

[9:44 AM] Kent Haehl

In the last session with Science team they articulated three buckets. Plant based was not noted as synthetic and separate from artificial to which current state law is intended.

[9:44 AM] Mlcah Sherman - Raven (Guest)

I support the intent in the current definitions here to define non-marijuana additives as anything produced outside of the regulated marijuana market.

[9:45 AM] Shawn DeNae

Let's make sure that if 'hot hemp' is grown, it is grown within the licenses canopy.

[9:46 AM] Chris Girard (Guest)

Ron Lewis creating an isomer via hyper degradation i.e heat, ph, and pressure, that the plant can degrade to naturally, is not by definition creating a synthetic. If so, converting non-psychoactive THCa to $\Delta 9$ is also creating a synthetic, no?

[9:46 AM] Ross-viles, Sarah

Rules should give LCB ability to consider health and safety impact of solvents and additives on workforce and environment as well as consumer (what remains in final product) during evaluation.

[9:49 AM] Ron Lewis

I understand it is not a "traditional" method of defining "synthetic",... BUT under these circumstances is beneficial to all involved parties. It is "synthetic" in the sense that it is produced by synthesis, especially not of natural origin.

[9:50 AM] Chris Girard (Guest)

Can we place a definition for "Hemp-Derived Additives" : Any and all compounds that are derived from Industrial Hemp. This would assist in distinguishing "non-marijuana additive," from "Hemp-derived additive" I ask in an effort to clarify as rules change, and we incorporate all cannabis products into our system?

[9:50 AM] Jeremy Moberg

it is important to distinguish between synthetic and artificial, both may need to be defined.

[9:51 AM] Ron Lewis

Hot Hemp DOES apply here ... JUST because WAC doesn't allow it now... doesn't mean we should not talk about it BECAUSE.... HOT HEMP IS ALLOWED to be ground up as a mix and sold,..... in Washington State... now ... today.... Shouldn't we discuss this openly so Hemp Growers do NOT have to go out of state in order to sell product?

[9:52 AM] Ron Lewis

USDA and WSDA have a system in place to handle Hot Hemp... shouldn't the WSLCB do the same?

[9:52 AM] Jeremy Moberg

We need to make sure that we are adhering to the intent of SB2334 which was to allow as an additive to increase cannabinoid (cbd) content of a product and not to allow for synthesis to other chemicals.

[9:52 AM] Drew Davis (Guest)

most uses of the word Synthetic apply to basic chemicals being altered. Synthetic Oil for your care is still largely based on crude petroleum.

[9:53 AM] Drew Davis (Guest)

car*

[9:54 AM] Ron Lewis

Synthetic Derived THC and Naturally Derived THC can be totally defined by WSLCB and applied to this topic.

[9:55 AM] Michael Carter (Guest)

Michigan is regulating Delta 8 and other cannabinoids. Does WA choose to let Michigan and other states or countries gain an advantage on a world stage when cannabis/hemp/marijuana are legalized for trade on a world stage?

[9:55 AM] Shawn DeNae

"Hot Hemp" = Marijuana and needs regulated if for human consumption

[9:56 AM] Trey Reckling (Guest)

marijuana= cannabis

[9:56 AM] Ron Lewis

"Hot Hemp" does not = Marijuana ... at least not until it reaches a level above 5% (personal opinion)...

[9:56 AM] Luke (Guest)

Generally, an adoption of this new section of rule seems to be duplicative of some of the vapor rules in 314-55-550. Would there be any interest in removing language from 314-55-550 so we don't have duplicative rules in chapter 314-55? Further does it make sense to incorporate hardware into this section of rule and just fully remove 314-55-550 from the chapter since these two sections are so similar in their intent and inception. Further amending 3,d to read "semi-annually" or "quarterly" to allow for the rapid changes and technological advancements during the growth of our industry. I fear yearly review may become prohibitive during this rapidly expansive time, especially if a prohibited substance can be altered/amended to be deemed safe upon further development and review.

[9:57 AM] Michael Carter (Guest)

I own Sativa Magazine and I'm studying Delta 8 and other cannabinoids that many consumers around the nation have discovered unique benefits from. They have discovered unique benefits from an isolated Delta 8 product. Delta 8 is special. The demand will not disappear. Michigan is doing research to regulate Delta 8 and create safe products. Are we positioning WA state to compete on a world stage with other states and countries who are regulating Delta 8 and other cannabinoids? Or do we plan to let states like Michigan gain a competitive advantage over the WA market when cannabis sales open on a world stage? Will we join other states and countries on the world stage in regards to commerce of all cannabinoids? Or will we let Michigan and other states have the advantage? Without regulation, testing and proper labeling we leave Delta 8 and other cannabinoids in the black market where our children have easier access to a product that could be unsafe.

[9:57 AM] Ron Lewis

at "0.5" or ever "1.0" %... Hemp is NOT Marijuana..... YES... the legal THC limit of Hemp should be at least 1.0%

[9:58 AM] Ron Lewis

Hemp Growers + Marijuana Growers = SUCCESS!

[9:58 AM] Shawn DeNae

(a) The board WILL prohibit (not MAY) the use of.....

[9:59 AM] Chris Girard (Guest)

Please Strike (ii) as we've seen this abused many times, we should only be looking at the science, not knee-jerk reactions of personally vested agencies. Remember being told using marijuana would lower your IQ? That came from a federal agency...

[9:59 AM] Jeremy Moberg

Micheal, this isn't a venue for you to promote your magazine or d8.

[10:00 AM] Brad Douglass (Guest)

Audio issues. Would like to suggest that a list of permitted ingredients also be maintained in addition to the prohibited ingredients.

[10:01 AM] Jeremy Moberg

Given the recent developments on vaping at the federal level, it seems that (ii) would need to stay

[10:01 AM] Beth (Guest)

(d) - at "at minimum" allowing for additional review of prohibited substances if new science or relevant information becomes available

[10:02 AM] Beth (Guest)

*available

[10:02 AM] Chris Girard (Guest)

Please add to sec (b), "this emergency rule-making will only be deemed necessary if an immediate threat to public safety"

[10:02 AM] Jeremy Moberg

How will the LCB track and enforce rules regarding use of ingredients and solvents or production of synthetics

[10:03 AM] Shawn DeNae

Reply to M. Carter on "we leave Delta 8 and other cannabinoids in the black market where our children have easier access to a product"

D8 can be found in glass, CBD, tobacco, etc stores, not just the unregulated market. Anything for human consumption needs to come from regulated plants and processes, IMO.

[10:03 AM] Robyn T (Guest)

I think that non Delta 9 license holders should be able to sell Delta 8. It can generate jobs, wealth and capital for those who were pushed out or never got an opportunity to participate in recreational due to lack of opportunity. It can give people of color the opportunity to enter into the cannabis industry.

[10:04 AM] Jeremy Moberg

That's what I am afraid of.

[10:04 AM] Ron Lewis

Is the Board considering any Production Methods for Delta-8 THC?

[10:04 AM] Michael Carter (Guest)

Michigan is regulating Delta 8. Why are we not?

[10:04 AM] Jeremy Moberg

Agree with Shawn.

[10:05 AM] Jeremy Moberg

Many states have banned d8.

[10:05 AM] Chris Girard (Guest)

Δ8 has been in 502 for years now, since probably 2015.

[10:05 AM] Ron Lewis

I HOPE THIS IS CONSIDERED..... Marijuana Producers can unfairly compete with Hemp Producers and production of both should be separate. IF you are a Marijuana Producer, then you cannot produce Hemp. IF you are a Hemp Producer, then you cannot produce Marijuana. By separating the 2 industries, it will benefit all involved.

[10:05 AM] Ron Lewis

Thank You!

[10:06 AM] Brad Douglass (Guest)

I would also like to suggest that the rationale for prohibiting/permitting a substance, or if substances are removed from the prohibited list be made a matter of public record. This would be akin to how FDA handles GRAS submissions for food ingredients.

[10:06 AM] Shawn DeNae

14 states and counting have banned D8

[10:06 AM] Luke (Guest)

Generally, an adoption of this new section of rule seems to be duplicative of some of the vapor rules in 314-55-550. Would there be any interest in removing language from 314-55-550 so we don't have duplicative rules in chapter 314-55? Further does it make sense to incorporate hardware into this section of rule and just fully remove 314-55-550 from the chapter since these two sections are so similar in their intent and inception.

[10:07 AM] Kelsey Holstrom

I agree with Luke, this section seems redundant considering the language of 314-55-550, could they not be consolidated for clarity?

[10:07 AM] Ross-viles, Sarah

The conversation today has included "public health and youth access" - makes sense to consider highlighting youth access as a consideration of evaluation (and add an evaluation)

[10:08 AM] Chris Bradley

question: does 314-55-560(3) suggest that the only basis for board prohibition of additive, solvent, etc. to marijuana products public health criteria?

[10:08 AM] Jeremy Moberg

I would like to see in rule a clarification that the law (RCW) only allows hemp into 502 to increase CBD. all other instances of hemp into 502 is not legal, and should be clearly stated in rule.

[10:10 AM] Jenn Mohr (Guest)

If we're restricting Hemp to CBD, that should also include CBN and CBG

[10:10 AM] Micah Sherman - Raven (Guest)

It's already restricted to CBD in law, can't be changed in rule.

[10:10 AM] Jeremy Moberg

Jenn, the law (SB2334) does not allow for any additive other than CBD

[10:10 AM] Chris Bradley

thanks

[10:11 AM] Michael Carter (Guest)

All states who ban Delta 8 are missing an opportunity to sell Delta 8 on the world stage. Worldwide cannabis legalization is coming soon. Michigan and other states and countries will land multimillion dollar contracts with France and other countries. WA will be left behind and lose tax revenue. Some people choose Willow Bark for headaches, most of us use Aspirin. Many consumers will demand Delta 8 for it's unique benefits and they will purchase from Michigan instead of WA.

[10:11 AM] Robyn T (Guest)

Delta 8 websites carry COA's, 3rd party verifications of identity is verified by a 3rd party company. Some require a selfie along with front and back photos of state ID as well as requiring a signature upon delivery by the adult purchaser. All products show testing results with assurance that all Delta 8 is 100% hemp derived, sellers are also required to carry insurance. Delta 8 can be sold in compliance.

[10:13 AM] Jeremy Moberg

Delta 8 is not allowed! This is not the place to advocate for its allowance

[10:13 AM] Shawn DeNae

Section 3 needs to also include allowance for a recall of products.

[10:13 AM] Trey Reckling (Guest)

Thanks Jeremy

[10:14 AM] Micah Sherman - Raven (Guest)

can you not hear me? I was talking

[10:15 AM] Micah Sherman - Raven (Guest)

I'll fix and circle back

[10:16 AM] Micah Sherman - Raven (Guest)

Why do we not start from a place where the only thing that are allowed are things that are approved ahead of time?

[10:16 AM] Michael Carter (Guest)

Delta 8 can be allowed if we take action to make it so. I will provide research to alleviate any concerns with the conversion process. I discovered unique benefits from Delta 8 and I'm a life long cannabis advocate. Delta 8 is special. It is not going anywhere. We should embrace it and regulate it.

[10:18 AM] Jeremy Moberg

Micheal clearly has an economic interest in D8.

[10:18 AM] Shawn DeNae

M. Carter: Then let's regulate it beginning with growing the plants within the regulated canopy. Seed to sale should apply to low THC and high THC plants meant for human consumption.

[10:18 AM] Ron Lewis

Delta-8 THC is here... now. The choice to regulate it is logical. HOW to regulate is the question! With Consumer Safety first and foremost,.... I offer this....HOPEFULLY ,... the choices made will benefit and protect the Washington State i502 Growers who have invested their lives into this Industry. HOPEFULLY,... .the choices made will benefit and protect the Washington State Hemp Growers who have invested their lives into this Industry.

[10:18 AM] Jeremy Moberg

Agreed, the only way d8 will be allowed under current rule would be if it came from 502 plants

[10:19 AM] Vasek, Audrey (LCB)

Nothing from me. Thank you everyone for your participation!

[10:19 AM] Chris Girard (Guest)

Thank you for hosting this, appreciated very much!

[10:19 AM] Michael Carter (Guest)

I have no economic interest in D8. I am a cannabis advocate and entrepreneur who has found unique benefits from Delta 8 and I'm trying to protect so I continue to have access to it.

[10:19 AM] Chris Bradley

Thanks LCBers for well run session

[10:20 AM] Shawn DeNae

Thank you, Kathy and team!

[10:20 AM] Ross-viles, Sarah

Thanks for this session!

[10:20 AM] Micah Sherman - Raven (Guest)

Great job rules team, as always.

[10:20 AM] Daniela Bernhard (Guest)

Thank you for this session

[10:20 AM] Jeremy Moberg (Guest)

thanks Kathy

[10:20 AM] Caitlein Ryan (Guest)

Thank you!

[10:47 AM] Jim MacRae (Guest)

Thank-you

Attachment C
THC Compound Evaluation Listen and Learn Session Rule Language Suggestions
September 9, 2021

No.	Source	Commenter	Comment	Rule Section
1	L&L Chat	AJ Sanders Jennifer Gosar	Recommendation to change references to marijuana to cannabis	WAC 314-55-560(1)
2	L&L Chat	Ron Lewis	I support the new WAC on its surface	WAC 314-55-560(1)
3	L&L Chat	Jeremy Moberg Ron Lewis Shawn DeNae	Strike "and" before "production"	WAC 314-55-560(1)
4	L&L Chat	Jeremy Moberg	Language like "reasonably be expected" or "otherwise effecting" is too general for definitions. Additive should be more concisely defined such as "anything added to a product" (Note: No alternative language offered)	WAC 314-55-560(2)
5	L&L Chat	Caitlein Ryan	"non-marijuana" gets tricky when there are so many questions regarding how or if "hemp" products outside the i502 system are allowed. It would be great to have definitions that delineate cannabinoids that come from inside the i502 system versus the hemp industry.	WAC 314-55-560(2)(d)
6	L&L Chat	Kent Haehl	An ingredient or additive should be restricted only to what remains in the final product.	WAC 314-55-560(2)(a)
7	L&L Chat	Shawn DeNae	Additive should be defined as 'anything added to a product' vs additives that otherwise affect the characteristics [sic]	WAC 314-55-560(2)(a)
8	L&L Chat	Lukas Hunter	For section 2,a I think adding the text "additive means any substance the use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the somatic and psychological characteristics of any marijuana product on the consumer. Adding the text "somatic and psychological" I believe is more accurate.	WAC 314-55-560(2)(a)
9	L&L Chat	Jeremy Moberg Shawn DeNae	Request that "synthetic" be defined in rule.	WAC 314-55-560(2)
10	L&L Chat	Micah Sherman	I support the intent in the current definitions here to define non-marijuana additives as anything produced outside of the regulated marijuana market.	WAC 314-55-560(2)
11	L&L	Shawn DeNae	I just looked up a quick google search and the first thing that popped up as "synthetic": 1. (of a substance) made by chemical synthesis, especially to imitate a natural product. They give the example as "synthetic rubber". I don't know if that will cover it but it seems simple enough and Delta-8 is certainly done in a chemical process to imitate a natural product that the plant makes in small minute quantity. So that might just cover us.	WAC 314-55-560(2)
12	L&L Chat	Chris Girard	Can we place a definition for "Hemp-Derived Additives" : Any and all compounds that are derived from Industrial Hemp. This would	WAC 314-55-560(2)

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			assist in distinguishing "non-marijuana additive," from "Hemp-derived additive" I ask in an effort to clarify as rules change, and we incorporate all cannabis products into our system?	
13	L&L Chat	Chris Girard	Please Strike (ii) as we've seen this abused many times, we should only be looking at the science, not knee-jerk reactions of personally vested agencies. Remember being told using marijuana would lower your IQ? That came from a federal agency...	WAC 314-55-560(3)
14	L&L Chat	Brad Douglass	Would like to suggest that a list of permitted ingredients also be maintained in addition to the prohibited ingredients.	WAC 314-55-560(3)
15	L&L Chat	Jeremy Moberg	Given the recent developments on vaping at the federal level, it seems that (ii) would need to stay	WAC 314-55-560(3)
16	L&L Chat	Beth	(d) at "at minimum" allowing for additional review of prohibited substances if new science or relevant information becomes available [sic]	WAC 314-55-560(3)(d)
17	L&L Chat	Chris Girard	Please add to sec (b), "this emergency rule-making will only be deemed necessary if an immediate threat to public safety [sic]"	WAC 314-55-560(3)(b)
18	L&L Chat	Brad Douglass	I would also like to suggest that the rationale for prohibiting/permitting a substance, or if substances are removed from the prohibited list be made a matter of public record. This would be akin to how FDA handles GRAS submissions for food ingredients.	WAC 314-55-560(3)
19	L&L Chat	Shawn DeNae	Section 3 needs to also include allowance for a recall of products.	WAC 314-55-560(3)
20	L&L Chat	Luke	Generally, an adoption of this new section of rule seems to be duplicative of some of the vapor rules in 314-55-550. Would there be any interest in removing language from 314-55-550 so we don't have duplicative rules in chapter 314-55? Further does it make sense to incorporate hardware into this section of rule and just fully remove 314-55-550 from the chapter since these two sections are so similar in their intent and inception.	WAC 314-55-560 (General)
21	L&L	Jeremy Moberg	Hi. I actually just typed it into the comments but I think that in this next round of rulemaking, it should be really clear what the pipeline and we've seen this in the thread comments multiple times here and we've seen how disruptive hemp into the 502 regulated market can be and I think it should be clearly stated in rule that the legislative intent and the law itself restricts the importation of hemp	WAC 314-55-560 (General)

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			into 502 as a CBD additive only. I think that needs to be very clearly spelled out.	
222	L&L	Sarah Ross-Viles	Thank you. I put this in the chat but didn't hear it, so sorry if I missed it. Makes sense to spell out youth access as public health, as well as public health, and other folks have been highlighting that this is very similar to the vapor laws. So I just wanted to make sure that a definition of "youth access" wouldn't be limited to vapor ingredients if that were to be added.	WAC 314-55-560 (General)