



**Washington State  
Liquor and Cannabis Board**

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Date: March 30, 2022

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

From: Jeff Kildahl, Policy and Rules Coordinator

Copy: Rick Garza, Agency Director  
Toni Hood, Deputy Director  
Justin Nordhorn, Director of Policy and External Affairs  
Becky Smith, Licensing Director  
Chandra Brady, Director of Enforcement and Education  
Kathy Hoffman, Policy and Rules Manager

**Subject: Pesticide Action Levels**

The Policy and Rules Coordinator 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 March 30, 2022.

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

March 30, 2022	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.
April 02, 2022	Notice published in the Washington State Register.
May 11, 2022	Public hearing held and formal comment period ends.
May 25, 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. CR103 and adopted rules are filed with the Office of the Code Reviser. LCB webpage updated and notice circulated to all WSLCB GovDelivery subscribers.
June 25, 2022	Rules are effective 31 days after filing (unless otherwise specified).

\_\_\_\_\_ Approve      \_\_\_\_\_ Disapprove      \_\_\_\_\_  
David Postman, Chair      \_\_\_\_\_  
Date

\_\_\_\_\_ Approve      \_\_\_\_\_ Disapprove      \_\_\_\_\_  
Ollie Garrett, Board Member      \_\_\_\_\_  
Date

Attachment: CR 102 Memorandum



## CR 102 Memorandum

### Regarding WAC 314-55-108 – Pesticide action levels

Date: March 30, 2022  
Presented by: Jeff Kildahl, Policy and Rules Coordinator

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### Background

On March 2, 2022, the Washington State Liquor and Cannabis Board adopted rule amendments to cannabis quality control testing rules in WAC 314-55-101, WAC 314-55-102, and WAC 314-55-1025. Among the changes to those rules, WAC 314-55-102 was amended to require pesticide testing of all cannabis products produced and sold in Washington.

The WSLCB has authority under RCW 69.50.342(1)(c) to approve the specific pesticides approved for use with cannabis, and to establish pesticide testing requirements for cannabis products. WAC 314-55-084 allows the WSLCB to permit the use of pesticides in the production, processing, and handling of cannabis that have been registered by the Washington State Department of Agriculture under chapter 15.58 RCW. WAC 314-55-108 establishes pesticide action levels for pesticides approved for use with cannabis.

Amendments are needed to WAC 314-55-108 to assure consistency with the recently-adopted cannabis quality control testing rules in WAC 314-55-101, WAC 314-55-102, and WAC 314-55-1025, and to update technical chemical isomer information of several pesticides.

### WSLCB Stakeholder Engagement

The recently adopted cannabis quality control testing rule project involved extensive stakeholder engagement, including deliberative dialogue sessions and multiple rule proposals. These proposed amendments to WAC 314-55-108 incorporate for consistency amendments that were adopted in rule through the cannabis quality control testing rule project.

Additionally, because these revisions are technical in nature, and do not change the form or substance of these rules, a Listen and Learn forum was not hosted. There were five comments received after the CR 101 was filed. Those comments are included as Attachment A.

## Rule Necessity

Amendments are needed to WAC 314-55-108 to ensure consistency with the recently-adopted cannabis quality control testing rules. Consistent with the cannabis quality control testing rules, the proposed amendments update the term “quality assurance testing” to “quality control testing”. Also for consistency, the proposed rule amendments remove outdated rule language concerning remediation of cannabis products that have failed quality control testing.

Other needed changes to the rule include updating technical chemical isomer information for some types of pesticides included in cannabis quality control testing, and clarifying the number of significant digits testing laboratories are expected to use for reporting numerical pesticide testing results. Also needed is removal of redundant rule language contained in existing rule subsections WAC 314-55-108(4) and WAC 314-55-108(5).

## Description of Rule Changes

**Amended Section. WAC 314-55-108** – The proposed rule makes the following changes to WAC 314-55-108:

- Updates the term “quality assurance testing” to “quality control testing”.
- Incorporates additional chemical isomer information and Chemical Abstract Services (CAS) Registry Numbers for several pesticides.
- Provides explanatory language that the pesticide action limits are written to the number of significant digits expected in reporting to the Board and on certificates of analysis.
- Removes redundant language contained in existing rule subsections (4) and (5).
- Removes previous rule language concerning remediation of cannabis products that failed quality control testing consisted with the marijuana quality control testing rules in WAC 314-55-102.



# 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 22-04-116 ; 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) WAC 314-55-108 – Pesticide action levels. The Washington State Liquor and Cannabis Board (WSLCB) proposes amendments to WAC 314-55-108 to update information related to pesticide action level testing of cannabis products.

### Hearing location(s):

<b>Date:</b>	<b>Time:</b>	<b>Location:</b> (be specific)	<b>Comment:</b>
May 11, 2022	10:00 am	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 Microsoft Teams application. The public may provide verbal comments during the specified public comment and rules hearing segments.	For more information about Board meetings, please visit <a href="https://lcb.wa.gov/Boardmeetings/Board_meetings">https://lcb.wa.gov/Boardmeetings/Board_meetings</a> .

**Date of intended adoption:** Not earlier than May 25, 2022 (Note: This is **NOT** the **effective** date)

### Submit written comments to:

Name: Jeff Kildahl

Address: 1025 Union Avenue SE, Olympia, WA 98501

Email: [rules@lcb.wa.gov](mailto:rules@lcb.wa.gov)

Fax: 360-664-9689

Other:

By (date) May 11, 2022

### 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) May 4, 2022

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The purpose of the proposed rule amendments is to update technical chemical isomer information contained in WAC 314-55-108 for some types of pesticides included in cannabis quality control testing, and to clarify the number of significant digits testing laboratories are expected to use for reporting numerical pesticide testing results.

Rule amendments are also needed to ensure consistency with WAC 315-55-102 concerning remediation of marijuana products that have failed quality control testing, remove redundant rule language contained both in the existing subsections (4) and (5), and to update the term "quality assurance testing" to "quality control testing".

**Reasons supporting proposal:** The proposed rule updates will help to protect public health and safety by keeping marijuana pesticide action level information and marijuana remediation guidelines current and up to date. These changes are needed to ensure consistency with the amendments to marijuana quality control testing rules in WAC 315-44-101, WAC 315-55-102, and WAC 314-55-1025 that were permanently adopted as WSR 22-06-097 on March 2, 2022.

**Statutory authority for adoption:** RCW 69.50.345 and RCW 69.50.348.

**Statute being implemented:** RCW 69.50.345 and RCW 69.50.348.

**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:** None

**Name of proponent:** (person or organization) Washington State Liquor and Cannabis Board  Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting: Coordinator	Jeff Kildahl, Policy and Rules	1025 Union Avenue SE, Olympia WA, 98501	360-664-1781
Implementation: Examiners Unit Manager	Kendra Hodgson, Marijuana	1025 Union Avenue SE, Olympia, WA. 98501	360-664-4555
Enforcement: Enforcement and Education	Chandra Brady, Director of the	1025 Union Avenue SE, Olympia, WA, 98501	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: Jeff Kildahl

Address: 1025 Union Avenue SE, Olympia WA 98501

Phone: 360-664-1781

Fax: 360-664-9689

TTY:

Email: rules@lcb.wa.gov

Other:

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

**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 19.85.025(4) .

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 to consider costs imposed on business and costs associated with compliance with proposed rules. Agencies are not required under chapter 19.85 RCW to consider indirect costs not associated with compliance. Here, the agency considered potential administrative costs that a licensee may incur complying with the proposed rules.

LCB applied the North American Industry Classification System (NAICS) codes 453998 for marijuana stores, both medicinal and recreational, 424590 for marijuana processors, 111998 for outdoor marijuana growers, and 111419 for indoor marijuana growers. 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	1% of Avg Annual Payroll (Threshold)	0.3% of Avg Annual Gross Business Income (Threshold)

424590	\$200	Marijuana merchant wholesalers	Other Farm Product Raw Material Merchant Wholesalers	\$6,733.79	\$3,684.24 2018 Dataset pulled from USBLS	\$6,733.79 2018 Dataset pulled from DOR
111998	\$200	Marijuana, grown in an open field	All Other Miscellaneous Crop Farming	\$9,125.33	\$9,125.33 2018 Dataset pulled from ESD	\$2,834.77 2018 Dataset pulled from DOR
111419	\$200	Marijuana, grown under cover	Other Food Crops Grown Under Cover	\$2,349.42	\$2,349.42 2018 Dataset pulled from ESD	\$2,324.68 2018 Dataset pulled from DOR

As the table demonstrates, the estimated cost of compliance does not exceed the thresholds for any of the license types. Therefore, implementation of these rules are not anticipated to result in more than minor costs on businesses as defined in RCW 19.85.020(2).

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:

<b>Date:</b> March 30, 2022	<b>Signature:</b>  Place signature here
<b>Name:</b> David Postman	
<b>Title:</b> Chair	



**WAC 314-55-108 Pesticide action levels.** (1) Only pesticides allowed under WAC 314-55-084 may be used in the production of marijuana, and they must be registered by the Washington state department of agriculture (WSDA) under chapter 15.58 RCW.

(2) Pursuant to WAC 314-55-102, if the WSLCB, WSDA, other designee of the WSLCB, or certified lab identifies a pesticide that is not allowed under subsection (1) of this section and is above the action levels provided in subsection (3) of this section, that lot or batch from which the sample was deducted has failed quality ((assurance)) control testing and may be subject to a recall as provided in WAC 314-55-225.

(3) The action levels for pesticides are provided in the table below. The action level for all other pesticides that are not listed in the table below or not allowed under subsection (1) of this section is 0.1 ppm.

<b>((Analyte</b>	<b>Chemical Abstract Services (CAS) Registry Number</b>	<b>Action Level ppm</b>
Abamectin	71751-41-2	0.5
Acephate	30560-19-1	0.4
Aeequinoeyl	57960-19-7	2
Acetamiprid	135410-20-7	0.2
Aldicarb	116-06-3	0.4
Azoxystrobin	131860-33-8	0.2
Bifenazate	149877-41-8	0.2
Bifenthrin	82657-04-3	0.2
Boscalid	188425-85-6	0.4
Carbaryl	63-25-2	0.2
Carbofuran	1563-66-2	0.2
Chlorantraniliprole	500008-45-7	0.2
Chlorfenapyr	122453-73-0	†
Chlorpyrifos	2921-88-2	0.2
Clofentezine	74115-24-5	0.2
Cyfluthrin	68359-37-5	†
Cypermethrin	52315-07-8	†
Daminozide	1596-84-5	†
DDVP (Dichlorvos)	62-73-7	0.1
Diazinon	333-41-5	0.2
Dimethoate	60-51-5	0.2
Ethoprophos	13194-48-4	0.2
Etofenprox	80844-07-1	0.4
Etoxazole	153233-91-1	0.2
Fenoxycarb	72490-01-8	0.2
Fenpyroximate	134098-61-6	0.4
Fipronil	120068-37-3	0.4

<b>((Analyte</b>	<b>Chemical Abstract Services (CAS) Registry Number</b>	<b>Action Level ppm</b>
Flonicamid	158062-67-0	1
Fludioxonil	131341-86-1	0.4
Hexythiazox	78587-05-0	1
Imazalil	35554-44-0	0.2
Imidacloprid	138261-41-3	0.4
Kresoxim-methyl	143390-89-0	0.4
Malathion	121-75-5	0.2
Metaxyl	57837-19-1	0.2
Methiocarb	2032-65-7	0.2
Methomyl	16752-77-5	0.4
Methyl parathion	298-00-0	0.2
MGK-264	113-48-4	0.2
Myelobutanil	88671-89-0	0.2
Naled	300-76-5	0.5
Oxamyl	23135-22-0	1
Paclobutrazol	76738-62-0	0.4
Permethrins <sup>a</sup>	52645-53-1	0.2
Phosmet	732-11-6	0.2
Piperonyl butoxide <sup>b</sup>	51-03-6	2
Prallethrin	23031-36-9	0.2
Propiconazole	60207-90-1	0.4
Propoxur	114-26-1	0.2
Pyrethrins <sup>bc</sup>	8003-34-7	1
Pyridaben	96489-71-3	0.2
Spinosad	168316-95-8	0.2
Spiromesifen	283594-90-1	0.2
Spirotetramat	203313-25-1	0.2
Spiroxamine	118134-30-8	0.4
Tebuconazole	80443-41-0	0.4
Thiacloprid	111988-49-9	0.2
Thiamethoxam	153719-23-4	0.2
Trifloxystrobin	141517-21-7	0.2

<sup>a</sup>Permethrins should be measured as cumulative residue of cis- and trans-permethrin isomers (CAS numbers 54774-45-7 and 51877-74-8 respectively).

<sup>b</sup>Action level applies to marijuana concentrates, marijuana extracts, intermediate products, and imported cannabinoids.

<sup>c</sup>Pyrethrins should be measured as the cumulative residues of pyrethrin 1, cinerin 1, and jasmolin 1 (CAS numbers 121-21-1, 25402-06-6, and 4466-1-2 respectively.)

<b>Analyte</b>	<b>µg/g (ppm)</b>	<b>CAS#</b>
<u>Abamectin (Sum of Isomers)</u>	<u>0.50</u>	<u>71751-41-2</u>
• <u>Avermectin B1a</u>		<u>65195-55-3</u>
• <u>Avermectin B1b</u>		<u>65195-56-4</u>

<b>Analyte</b>	<b><u>µg/g (ppm)</u></b>	<b>CAS#</b>
<u>Acephate</u>	<u>0.40</u>	<u>30560-19-1</u>
<u>Acequinocyl</u>	<u>2.0</u>	<u>57960-19-7</u>
<u>Acetamiprid</u>	<u>0.20</u>	<u>135410-20-7</u>
<u>Aldicarb</u>	<u>0.40</u>	<u>116-06-3</u>
<u>Azoxystrobin</u>	<u>0.20</u>	<u>131860-33-8</u>
<u>Bifenazate</u>	<u>0.20</u>	<u>149877-41-8</u>
<u>Bifenthrin</u>	<u>0.20</u>	<u>82657-04-3</u>
<u>Boscalid</u>	<u>0.40</u>	<u>188425-85-6</u>
<u>Carbaryl</u>	<u>0.20</u>	<u>63-25-2</u>
<u>Carbofuran</u>	<u>0.20</u>	<u>1563-66-2</u>
<u>Chlorantraniliprole</u>	<u>0.20</u>	<u>500008-45-7</u>
<u>Chlorfenapyr</u>	<u>1.0</u>	<u>122453-73-0</u>
<u>Chlorpyrifos</u>	<u>0.20</u>	<u>2921-88-2</u>
<u>Clofentezine</u>	<u>0.20</u>	<u>74115-24-5</u>
<u>Cyfluthrin</u>	<u>1.0</u>	<u>68359-37-5</u>
<u>Cypermethrin</u>	<u>1.0</u>	<u>52315-07-8</u>
<u>Daminozide</u>	<u>1.0</u>	<u>1596-84-5</u>
<u>DDVP (Dichlorvos)</u>	<u>0.10</u>	<u>62-73-7</u>
<u>Diazinon</u>	<u>0.20</u>	<u>333-41-5</u>
<u>Dimethoate</u>	<u>0.20</u>	<u>60-51-5</u>
<u>Ethoprophos</u>	<u>0.20</u>	<u>13194-48-4</u>
<u>Etofenprox</u>	<u>0.40</u>	<u>80844-07-1</u>
<u>Etoxazole</u>	<u>0.20</u>	<u>153233-91-1</u>
<u>Fenoxycarb</u>	<u>0.20</u>	<u>72490-01-8</u>
<u>Fenpyroximate</u>	<u>0.40</u>	<u>134098-61-6</u>
<u>Fipronil</u>	<u>0.40</u>	<u>120068-37-3</u>
<u>Flonicamid</u>	<u>1.0</u>	<u>158062-67-0</u>
<u>Fludioxonil</u>	<u>0.40</u>	<u>131341-86-1</u>
<u>Hexythiazox</u>	<u>1.0</u>	<u>78587-05-0</u>
<u>Imazalil</u>	<u>0.20</u>	<u>35554-44-0</u>
<u>Imidacloprid</u>	<u>0.40</u>	<u>138261-41-3</u>
<u>Kresoxim-methyl</u>	<u>0.40</u>	<u>143390-89-0</u>
<u>Malathion</u>	<u>0.20</u>	<u>121-75-5</u>
<u>Metalaxyl</u>	<u>0.20</u>	<u>57837-19-1</u>
<u>Methiocarb</u>	<u>0.20</u>	<u>2032-65-7</u>
<u>Methomyl</u>	<u>0.40</u>	<u>16752-77-5</u>
<u>Methyl parathion</u>	<u>0.20</u>	<u>298-00-0</u>
<u>MGK-264</u>	<u>0.20</u>	<u>113-48-4</u>
<u>Myclobutanil</u>	<u>0.20</u>	<u>88671-89-0</u>
<u>Naled</u>	<u>0.50</u>	<u>300-76-5</u>
<u>Oxamyl</u>	<u>1.0</u>	<u>23135-22-0</u>
<u>Paclobutrazol</u>	<u>0.40</u>	<u>76738-62-0</u>
<u>Permethrins (Sum of Isomers)</u>	<u>0.20</u>	<u>52645-53-1</u>
• <u>cis-Permethrin</u>		<u>54774-45-7</u>

<u>Analyte</u>	<u>µg/g (ppm)</u>	<u>CAS#</u>
• <u>trans-Permethrin</u>		<u>51877-74-8</u>
<u>Phosmet</u>	<u>0.20</u>	<u>732-11-6</u>
<u>Piperonyl butoxide</u>	<u>2.0</u>	<u>51-03-6</u>
<u>Prallethrin</u>	<u>0.20</u>	<u>23031-36-9</u>
<u>Propiconazole</u>	<u>0.40</u>	<u>60207-90-1</u>
<u>Propoxur</u>	<u>0.20</u>	<u>114-26-1</u>
<u>Pyrethrins (Sum of Isomers)</u>	<u>1.0</u>	<u>8003-34-7</u>
• <u>Pyrethrin I</u>		<u>121-21-1</u>
• <u>Pyrethrin II</u>		<u>121-29-9</u>
<u>Pyridaben</u>	<u>0.20</u>	<u>96489-71-3</u>
<u>Spinosad (Sum of Isomers)</u>	<u>0.20</u>	<u>168316-95-8</u>
• <u>Spinosyn A</u>		<u>131929-60-7</u>
• <u>Spinosyn D</u>		<u>131929-63-0</u>
<u>Spiromesifen</u>	<u>0.20</u>	<u>283594-90-1</u>
<u>Spirotetramat</u>	<u>0.20</u>	<u>203313-25-1</u>
<u>Spiroxamine</u>	<u>0.40</u>	<u>118134-30-8</u>
<u>Tebuconazole</u>	<u>0.40</u>	<u>80443-41-0</u>
<u>Thiacloprid</u>	<u>0.20</u>	<u>111988-49-9</u>
<u>Thiamethoxam</u>	<u>0.20</u>	<u>153719-23-4</u>
<u>Trifloxystrobin</u>	<u>0.20</u>	<u>141517-21-7</u>

(4) For the purposes of this section, limits have been written to the number of significant digits that laboratories are expected to use when reporting to the board and on associated certificates of analysis.

(5) Except as otherwise provided in this section, licensed marijuana producer or processor that provided a sample that fails quality ((assurance)) control testing must dispose of the entire lot or batch from which the sample was taken as provided by marijuana waste disposal requirements in WAC 314-55-097 and document the disposal of the sample pursuant to traceability requirements in WAC 314-55-083(4) and recordkeeping requirements in WAC 314-55-087. A licensee's sample that does not test above the pesticide action levels under this section where test results show the presence of a pesticide that is not allowed under subsection (1) of this section may still be subject to an administrative violation if the disallowed pesticide was applied.

~~((5) Except as otherwise provided in this section, a licensed marijuana producer or processor which provided a sample that fails quality assurance testing must dispose of the entire lot or batch from which the sample was taken as provided by marijuana waste disposal requirements in WAC 314-55-097 and document the disposal of the sample pursuant to traceability requirements in WAC 314-55-083(4) and recordkeeping requirements in WAC 314-55-087.))~~

(6) Pursuant to WAC 314-55-102, at the request of the producer or processor, the WSLCB may authorize a retest to validate a failed test result on a case-by-case basis. All costs of the retest will be borne by the producer or the processor requesting the retest.

~~(7) ((Producers and processors may remediate failed harvests, lots, or batches so long as the remediation method does not impart any~~

~~toxic or deleterious substance to the usable marijuana, marijuana concentrates, or marijuana-infused product. Remediation solvents or methods used on the marijuana product must be disclosed to a licensed retailer or consumer upon request. The entire harvest, lot, or batch the failed sample(s) were deducted from must be remediated using the same remediation technique. No remediated harvest, lots or batches may be sold or transported until the completion and successful passage of quality assurance testing as required in this section and WAC 314-55-102.~~

(8)) Pursuant to WAC 314-55-102, upon request a marijuana licensee must disclose and make available all quality ((assurance)) control tests and retest results for the lot or batch of usable marijuana, marijuana concentrates, or marijuana-infused products to the marijuana licensee or retail customer who is considering purchasing the usable marijuana, marijuana concentrates, or marijuana-infused products.

**Attachment A - Public Comment—Pesticide Action Levels**

Written Comments Received Regarding CR 101 filed as WSR 22-04-116

	Source	Commenter	Date Received	Comment and Response
1	Email	John Kingsbury	2/23/2022	<p><b>Comment:</b> Hi,</p> <p>Does LCB have any hoped-for timelines for this rulemaking.</p> <p>May I ask what prompted it?</p> <p>Is there an online form for comments? Or would you just prefer emails?</p> <p>As an aside, Justin Nordhorn mentioned new product labeling rulemaking. He referred to it in the context of suggestin an alternative to my recent concern about rulemaking concerning synthetically-created cannabinoids and whether that belonged in QA rules. Can you tell me about that?</p> <p>Thank you</p> <p>John Kingsbury</p> <p><b>WSLCB response:</b> Good Morning Mr. Kingsbury,</p> <p>We filed this CR-101 for WAC 314-55-108 because the Board is considering updating information about a couple of the pesticides listed in WAC 314-55-108, updating rule language regarding remediation of marijuana that has failed quality assurance testing, and updating rule language to change the term “quality assurance testing” to “quality control testing”. These changes are being considered to make sure the section will be consistent with the WAC 314-55-101, WAC 314-55-102, and WAC 314-55-1025.</p> <p>There is no online form for sending comments, but you can of course send emails. Our tentative timeline would be to present a CR 102 with proposed rule language to the Board not earlier than March 30, 2022. Under that timeline, the public hearing on the CR-102 could be held as early as May 11, 2022, and the CR-103 could be presented to the Board as early as May 25, 2022.</p> <p>I apologize because I don’t know much at this point about any possible product labeling rulemaking. I can tell you more when I know more about the product labeling rules.</p> <p>Sincerely, Jeff</p>

**Attachment A - Public Comment—Pesticide Action Levels**

Written Comments Received Regarding CR 101 filed as WSR 22-04-116

2	<i>Email</i>	John Kingsbury	2/23/2022	<p><b>Comment:</b> Mr. Kildahl,</p> <p>Thank you for doing this. I have an obvious comment already.</p> <p>There need to be action levels for pyrethrin and piperonyl butoxide on flower. These are effective pesticides because they are potent nerve agents. A large number of cannabis patients have nervous system disorders. Having no action levels for these compounds is reckless, at best.</p> <p>John Kingsbury</p> <p><b>WSLCB response:</b> Good Afternoon Mr. Kingsbury,</p> <p>Thank you for your comment on this CR 101 filing. I will include it in the file for this rule project.</p> <p>Sincerely, Jeff</p>
3	<i>Email</i>	John Kingsbury	2/23/2022	<p><b>Comment:</b> Mr. Kildahl,</p> <p>Also, be aware that, after LCB completes it QA process, I intend to file a rulemaking request at DOH to re-evaluate their rules under 246-70. One of my requests toward that rulemaking will be to allow remediation of failed product. I do not know the original rationale for disallowing the option of remediation, but, in my mind, the most important thing is whether the product the is being consumed is clean enough.</p> <p>John Kingsbury</p> <p><b>WSLCB response:</b> Mr. Kildahl,</p> <p>Also, be aware that, after LCB completes it QA process, I intend to file a rulemaking request at DOH to re-evaluate their rules under 246-70. One of my requests toward that rulemaking will be to allow remediation of failed product. I do not know the original rationale for disallowing the option of remediation, but, in my mind, the most important thing is whether the product the is being consumed is clean enough.</p> <p>John Kingsbury</p>

**Attachment A - Public Comment—Pesticide Action Levels**

Written Comments Received Regarding CR 101 filed as WSR 22-04-116

4	Email	John Kingsbury	3/15/2022	<p><b>Comment:</b> I am submitting the following comments for rulemaking WSR 22-04-116</p> <p>Action levels:</p> <p><a href="#">WAC 314-55-108.</a></p> <ol style="list-style-type: none"><li>1. <b>Establish action limits for pyrethrin and piperonyl butoxide for flower.</b> Currently, action levels for pyrethrin and piperonyl butoxide exist only for concentrates, but not for flower. There can be no rational reason for this. If these compounds have safety limits for concentrates, they should also have the same safety limits for flower. The action limit for pyrethrin should be extended to flower at the limit of 1.0 ppm. The action limit for piperonyl butoxide, set at 2.0 ppm for concentrates should also be set at 2.0 ppm for flower.</li><li>2.</li><li>3. <b>Set action limits for azadirachtin.</b> An action limit should be set for azadirachtin for both flower and concentrates. That limit should be set at <u>360 ppm</u>.</li><li>4.</li><li>5. <b>Remediation changes.</b></li><li>6. Lots which fail QA testing for allowed pesticides should have the opportunity to be remediated, within the guidelines set by Sections (5) through(8), <u>remediation for allowed pesticides should continue to be allowed.</u></li><li>7. However, when <u>disallowed pesticides are detected above action levels, remediation should not be allowed.</u></li></ol> <p>Thank you for your work on these important issues.</p> <p>John Kingsbury</p> <p><b>WSLCB response:</b> Good Morning Mr. Kingsbury,</p> <p>Thank you for your comments on the WSR 22-04-16, the CR-101 for amendments to WAC 314-55-108. I will place them now in the rulemaking file for consideration. I appreciate your interest in this rulemaking.</p> <p>Sincerely,</p> <p>Jeff</p>
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**Attachment A - Public Comment—Pesticide Action Levels**

Written Comments Received Regarding CR 101 filed as WSR 22-04-116

5	<i>Emails and Letter</i>	Micah Sherman	3/20/2022	<p><b>Comment:</b></p> <p>Hi Justin,</p> <p>Here are our comments on the cr101 for pesticide action levels.</p> <p>As the implications of the ruleset as currently constructed will be relevant immediately as to what is tested for on April 2nd we were hoping to get a more immediate response on what will be happening in a few weeks once testing begins.</p> <p>We would be interested in getting clarity on the fact that the allowed pesticides that are labeled with action levels in subsection 3 are not subject to being tested for as per the language in this section. Only disallowed pesticides are called out as needing to be tested for, yet those allowed pesticides are being called out on the list with an action level, as a result labs are misreading their obligation and are testing for these allowed pesticides despite there being no clear direction to do so.</p> <p>Hopefully this is part of the corrections seeking to be made in the current rulemaking and in the meantime a clarification could be added to the implementation document being drafted that clarifies what exactly is the required content of the pesticide screening and that it only applies to disallowed pesticides.</p> <p>We'll be sending in separate comments next week about the rest of the implementation document. We appreciate your time today as it will help us make better comments in that process that will be helpful within the constraints you outlined today.</p> <p>Take care,</p> <p>Micah Sherman Owner/Operations Director</p> <p>Hi Jeff,</p> <p>The earlier version I sent had the wrong date on it. Here's an updated one for the official public comment if you don't mind.</p> <p>Thanks!</p> <p>Micah Sherman Owner/Operations Director</p>
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**Attachment A - Public Comment—Pesticide Action Levels**

Written Comments Received Regarding CR 101 filed as WSR 22-04-116

				<p>March 18, 2022</p> <p>To: WSLCB Board and Staff</p> <p>WSCA comments on CR-101 - Pesticide action levels</p> <p>Prior to seeing the proposed draft rules from the agency our only significant comment on this section is to highlight the contradiction in subsection 2 and subsection 3 as it relates to allowable and disallowable pesticides.</p> <p>(2) Pursuant to WAC 314-55-102, if the WSLCB, WSDA, other designee of the WSLCB, or certified lab identifies a pesticide that is not allowed under subsection (1) of this section and is above the action levels provided in subsection (3) of this section, that lot or batch from which the sample was deducted has failed quality assurance testing and may be subject to a recall as provided in WAC 314-55-225.</p> <p>The underlined section above shows that only disallowed pesticides are to be tested. Yet in subsection 3 it lists at least (2) allowed pesticides as having action levels. We would like to see some reconciliation of the contradiction in these two sections. Either the allowed pesticides should be removed from the list in subsection 3 or they should be removed from the WSDA list of allowable pesticides.</p> <p>We understand that there is intention to change rules around remediation but not knowing what those changes are going to be it is hard to give any comment prior to seeing some draft rule changes. We will provide further comments when draft rules are presented.</p> <p>Board of Washington Sun and Craft Growers Association Jade Stefano – Puffin Farms Jason Poll – Gorge Gold Jeremy Moberg – Cannasol Farms Matthew Frigone Bernard – Lazy Bee Garden Micah Sherman – Raven Grass Ryan Sevigny - Landrace Shawn DeNae – Washington Bud Company Tamara Weinmann – Bellevue Cannabis</p> <p><b>WSLCB response:</b></p>
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**Attachment A - Public Comment—Pesticide Action Levels**

Written Comments Received Regarding CR 101 filed as WSR 22-04-116

				<p>Good Afternoon Mr. Sherman,</p> <p>Thank you for sending your comments on the pesticide action level CR 101. I will include them in the rulemaking file and the CR 102 package for consideration by the Board.</p> <p>Sincerely, Jeff</p>
6	Email	John Kingsbury	3/15/2022	<p>Hi Justin,</p> <p>When I first wrote, it appears the automatic numbering function on my Hotmail did not function very well. :) Sorry about the confusion.</p> <p>1. The suggested action levels for pyrethrin and piperonyl butoxide just match the action levels for those substances in concentrates that already exist in the <a href="#">WAC</a>. I believe those action levels were just originally cut and pasted from Oregon's limits (which I believe is how all of Washington's action limits were originally adopted). I just added those action limits from the concentrates column to the flower column for this recommendation. It makes no sense to me that no limits would be safe in flower, while unsafe in concentrates. I stumbled upon a good amount of information that the action limits for piperonyl butoxide and pyrethrin are set too high, but, to be honest, I just did not want to fight it and so I decided to make the easy ask by asserting "If the existing action levels are appropriate for concentrates, then they should also be appropriate for flower, since both are inhaled."</p> <p>Given the information that these action levels were set too high, I did a little digging to try to discover why Oregon set those levels there. I also spoke with four labs, including the one in Oregon. To oversimplify, what I got out of that is that these limits were originally set for ingested products, and on the belief that they biodegrade quickly (which I understand not to be accurate because I have tested four-year-old flower samples that still show high-levels of these two compounds in flower).</p> <p>2 To be honest, the azadirachtin number is a thumbnailing. I found a variety of academic studies, none of which set a "safe" inhaled level, but which did set a "definitely will make someone sick" toxicity level (at about 1100 ppm) I found another study (but only one), that showed significant tissue build-up at repeated exposures at 280 ppm. We already know how persistent azadirachtin is, how it is persistent from generation to generation, and about its link to hyperemesis syndrome. Three of the studies suggested that repeated exposure at a third of the acute toxicity level (1100 ppm) "showed no obvious signs of toxicity", so I liberally set the limit there. Again, it was a thumbnail limit. Honestly, it should probably be set lower, but I could not even thumbnail that number with any ballpark accuracy (maybe at the 280 ppm</p>

**Attachment A - Public Comment—Pesticide Action Levels**

Written Comments Received Regarding CR 101 filed as WSR 22-04-116

				<p>number) I will retrace my steps and get those studies to you.</p> <p>3 Remediation. Denying remediation for disallowed pesticides is intended to be punitive, and as a deterrence -that is it. My idea for allowing remediation for allowed pesticides in recreational product has more to do with aligning with the rulemaking petition I intend to file for <a href="#">WAC 246-70</a> product. I would like to make producing 246-70 less scary for producers. I want to avoid recreational testing standards that are stricter than DOH standards. Currently, remediation is disallowed in 246-70 product. I intend to request that remediation be allowed for DOH product.</p> <p>I had an experience a while back in which an employee contacted me, alarmed, and told me a story about an infestation his employer had and how his boss told them to dump a bunch of pesticides on the product. He told me the crop had been sold to a processor at a very reduced price. Together we tried to track the crop to the end product. When I tested the shelf product, it was very clean. My conclusion was that, if the stuff I tested a was actually the infested crop, then remediation can be effective.</p> <p>However, I have spoken with a couple of processors and a couple of of labs, and they all claim that, specifically with pyrethrin and piperonyl butoxide, that those compounds are extremely difficult to remediate. Not being a chemist, I do not understand why that would be.</p> <p>I will dig up the azadirachtin studies for you.</p> <p>John Kingsbury</p>
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