



Board Caucus Meeting

Tuesday, May 10, 2022, 10:00am

This meeting was held via web conference

Meeting Minutes

CAUCUS ATTENDEES

Chair David Postman
Member Ollie Garrett
Member Jim Vollendroff
Dustin Dickson, Executive Assistant

GUESTS

Kathy Hoffman, Policy and Rules Manager
Audrey Vasek, Policy and Rules Coordinator
Jeff Kildahl, Policy and Rules Coordinator
Robert DeSpain, Policy and Rules Coordinator

APPROVAL OF MEETING MINUTES

MOTION: Member Garrett moved to approve the April 26, 2022, Board caucus minutes

SECOND: Chair Postman seconded.

ACTION: Chair Postman approved the motion.

MOTION: Member Vollendroff moved to approve the May 3, 2022, Board caucus minutes

SECOND: Member Garrett seconded.

ACTION: Chair Postman approved the motion.

Chair Postman: And those are approved. Jim, that was your first official action, how did that feel?

Member Vollendroff: It felt good, it felt good!

Chair Postman: A dramatic moment. (laughter)

And we will move right into Board meeting prep and rules update from our esteemed rules team. Kathy, I'll turn it over to you, and you can tell us what's happening.

BOARD MEETING PREP AND RULES UPDATE

Kathy Hoffman: Sure, thanks Chair Postman, and good morning, Board Members Garrett and Vollendroff. Nice to see you.

I'll just start with a brief update on the rules in progress, and then each of the rules coordinators will be presenting tomorrow, so they'll brief you on what they'll be providing, and then I will, too, because I'm going to do something tomorrow as well.

So, starting on the alcohol side of our work, we're in touch on ax-throwing. We were going to bring this CR 103 package tomorrow, but we're going to delay that for a couple weeks because Chair Postman will not be here tomorrow. We want to make sure the full Board was available to vote on that CR 103 package. And then, with respect to Senate Bill 5940, I hope I got that right, I'm wearing the wrong glasses, but 5940, work is still in progress on that, and Audrey can provide anything additional if she wishes to, but it looks like we're moving ahead on that one. And then Audrey will speak to you about the package with respect to the electronic filing that she'll be bringing to you tomorrow.

And then, Jeff will speak to pesticide action levels, the project to change the word 'marijuana' to 'cannabis' throughout our rules is still on schedule. I think we received a handful of comments, nothing that would change the course of action that we're following on that. And then Robert will speak to THC cannabinoid definitions, the 101 that I'll be bringing to you tomorrow.

And, then I'd like to speak really briefly to the social equity project. I'm going to bring a request to withdraw our CR 102 that was filed on April 13th, regarding amendments to existing rules and a new rules section, and then changing the word 'marijuana' to 'cannabis' throughout the sections we're amending. We'd like to engage in some additional research and analysis to make sure that we align with the intentions of the social equity program. So, we anticipate completing that additional research and analysis, and then bringing an updated proposal to you once that's completed, on or about June 22nd, we're projecting we'll be done by that time. We remain committed to implementing a successful social equity program, and we just feel like there's additional work that we can do to make that so, or get closer to it. So, I'll stop there; any questions?

Chair Postman: My question on the timeline for social equity – you said you'd be back by June 22nd – I just think the big question is, what does withdrawing do to the timeline that we were already operating under?

Ms. Hoffman: Adjusted, probably three or four weeks. It's not going to be terribly significant, and I think the goal of the agency was to begin to implement the program in the early fall – late summer, early fall.

Chair Postman: Right.

Ms. Hoffman: So that keeps us in line with that timeline, it doesn't throw us off by a lot.

Chair Postman: Okay, and again, just to be clear, we're talking about the program, what we're saying is, that's when we would be able to start to receive applications for these licenses, right?

Ms. Hoffman: I believe so, yes.

Chair Postman: Okay. And that comes to the Board tomorrow?

Ms. Hoffman: It does.

Chair Postman: All right, I'll miss that, but okay. Thank you for that.

Ms. Hoffman: All right, and just really quickly before I hand it off to rules coordinators, we still are in line to be opening up packaging and labeling rules, and advertising rules. At this point it looks like it's going to be early June before we start that work. We have some internal discussion that we're going to engage in

before we do that as well. And, then Audrey will be leading some projects as well with respect to making those various amendments that we need to on the alcohol rules that staff have been asking for for quite some time, and just some general rule hygiene that we need to do. We're also predicting we'll open those in early June. So, right around the corner, really.

Chair Postman: Great, thank you.

Ms. Hoffman: All right, so if I may, I will hand it over to Audrey to give you a briefing on what she'll be providing tomorrow.

Chair Postman: Great.

Ms. Hoffman: Thanks, Audrey.

Audrey Vasek: Thanks Kathy, and good morning, Chair Postman, Board Members Garrett and Vollandroff. Tomorrow I'll be requesting approval to file a CR 102 rule proposal related to electronic transmission of documents for service and filing. For some brief background, this project was initiated on February 2nd, 2022, so earlier this year, when the Board approved filing the CR 101 to begin considering amending or creating new sections to allow the LCB to serve or receive documents by electronic transmission. So, a new rule section is needed to streamline and modernize business and adjudicative processes within the agency, as well as bring a consistent approach across the divisions. We anticipate this approach will also benefit anyone that interacts with the agency, so our licensees, permit holders, and other interested parties, as well as reduce potential impacts to any future agency technology systems, modernization updates and SMP (Systems Modernization Project).

Although no public comments were received during the initial CR 101 comment period, from February 2nd to March 18th, after that period ended, we did share conceptual draft rules publicly through GovDelivery on April 11th, and received three public comments in response to that. And, those three comments were neither for nor against the rule making, they were questions, statements of interest, and operational feedback. Those comments are included in attachment B to the draft CR 102 memo that was shared with you in week— [audio drop out] Communications unit, Licensing division, Enforcement and Education division, and Finance division were all involved in developing the proposed rule language.

A brief summary of the proposed rules: The proposed rules adopt electronic transmission as an additional means for service and filing of documents. And, electronic transmission is defined as "including but not limited to, email, web portal, fax, or other similar methods". The proposed rule also outlines procedures for service and filing of documents by electronic transmission and describes how date and time of delivery or receipt will be determined.

With respect to compliance costs, in this case the agency anticipates the business will not have any costs associated with complying with the proposed rules because the rules authorize electronic transmission as additional means, so, all the additional means for service and filing, such as by mail or in person delivery, would also remain viable options, and if a licensee wanted to keep using those, they could. So the CR 102 describes that analysis in more detail.

In terms of timeline, if the CR 102 is approved tomorrow, I'll file it with the Code Reviser and the formal comment period will begin, so, a new comment period will open. The public comment period will close, end of day, June 22nd, and that's when the public hearing will be set for as well. After that, if no substantive changes need to be made to the rule language, the earliest the CR 103, or, final rules, could be adopted is July 6th. And if they are approved on the 6th, they would go into effect on August 6th.

That's all I have on that presentation, and if you have any questions I'm happy to answer them.

Chair Postman: No, I'm good on this, thanks. Anything from the Board?

Member Garrett: No.

Member Vollendroff: No.

Ms. Vasek: Thank you.

Chair Postman: Thank you.

Jeff Kildahl: I'll pick up here, good morning, Chair Postman, and good morning, Member Garrett, and Member Vollendroff. At tomorrow's Board meeting, we will hold the public hearing on proposed amendments to WAC 314-55-108, regarding pesticide action levels in cannabis.

The proposed amendments would update technical chemical isomer information in the WAC, for several of the pesticides currently allowed for use in the production of cannabis. Under proposed changes, this rule would update language to ensure consistency with the recently adopted cannabis quality control testing rules, and would remove redundant rule language from the section. And, finally, the amendments would also replace the term 'Quality Assurance Testing' with the term 'Quality Control Testing,' consistent with those recently adopted rules.

Since the CR 102 public comment period began on March 30th, we have received just one public comment on the proposed rules. If there are no substantive changes that are made to the proposed rule language, we anticipate bringing a CR 103 permanent rulemaking package to you for consideration on May 25th, 2022. And, under that timeline, the updated rule would then become effective on June 25th, 2022.

That's all I have for the rulemaking hearing tomorrow, and I'm happy to answer any questions.

Chair Postman: I've got just a quick one; as I was looking at the memo, where you, I guess starting on page one, you have the actual list of the different things, and then the action level, parts per million- so, and basically everything is crossed out of the first one – so, I mean it seems obvious, but we're basically crossing everything out that's there, re-stating it in the new rule, even if some of those levels aren't going to change?

Mr. Kildahl: Right, yeah, if the levels do not change – the convention of crossing out the existing table of pesticides in the rule text is the practice of the Code Reviser's office.

Chair Postman: I see.

Mr. Kildahl: But actually the changes are just to add some alternative names to the pesticide that identify the isomers, so the different, kind of, sub-varieties of that pesticide.

Chair Postman: Oh, I see. Yeah, I was trying to figure out what was new. I see those sub-listings under a couple of items. Okay, great, thank you.

Mr. Kildahl: It's just the style. They do it for their purposes.

Chair Postman: I appreciate that.

Mr. Kildahl: Thank you.

Chair Postman: All right. Kathy, or, Robert?

Ms. Hoffman: I just wanted to make sure he was on, so thanks, Robert.

Chair Postman: Hi, Robert.

Robert DeSpain: Hi! Good morning, Kathy, good morning Chair Postman, Board Member Garrett, and Board Member Vollendroff. Tomorrow, I will request your approval to file a CR 101 pre-proposal statement of inquiry regarding expanding definitions related to the evaluation of additives, solvents, ingredients, compounds, or concentrates, used in the production or processing of cannabis products.

The WSLCB is considering creating new, amending, or repealing rule sections as necessary to identify and further define terms including but not limited to additives, solvents, ingredients, compounds, or concentrates used in the production or processing of cannabis products. Additional revisions may be considered where appropriate. And so the production and processing of cannabis products may involve the use of potentially harmful additives, solvents, ingredients, compounds, or concentrates, and rules are needed to further define these, used in the production or processing of cannabis products that pose, or may pose, a risk to public health or youth access.

If approved by the Board, a rule project team consisting of members across multiple divisions will convene to draft conceptual rules.

I'm happy to answer any questions you might have about this CR 101.

Member Garrett: I have no questions.

Chair Postman: Robert, just for the public's sake, this, then, is the subject of at least two more "deliberative dialogues", right? That's the work that we're doing there? Or, Kathy can answer?

Ms. Hoffman: I can help with that, if it's okay.

Chair Postman: Sure.

Ms. Hoffman: We do, and I'm glad you brought that up, Chair Postman. We do have two more "deliberative dialogues" scheduled; one is May 31st, and another one on June, I want to say, 21st. I'll need to double check my calendar on that. But the "deliberative dialogue" on May 31st is going to have more of an enforcement leaning to it, I think. Up to this point we've been paying close attention to the scientific definitions of these products and trying to get those scientific definitions into some sort of regulatory structure can be challenging. We saw that in the last, certainly the last round of rulemaking, but also in some of the legislation that we saw during the session. So those dialogues are, of course, deigned to help inform both the rulemaking and potential future legislation. The next deliberative dialogue will be leaning in a different direction so we can get a different perspective. And then we're also very interested in behavioral health and prevention with respect to delta-8 and other products like it. Sorry, Robert.

Mr. DeSpain: No, no, that's great, I appreciate the additional expansion of this. So, you have the two "deliberative dialogues" that are going to be coming in May and June are relevant and germane to this CR package.

Chair Postman: Will we – I hope I'm not stirring the pot unnecessarily – will we be trying to define 'Impairing' then? I know that's part of the discussion, the dialogues...

Ms. Hoffman: I think it's fair to say that we'll be considering if that's the word we need to use, or if there's some other measurement or some other word to frame 'impairment'. We've tried, I think we've talked about 'intoxicating', I think at one point in the conversation there was 'psychotropic', 'psycho-reactive', a collection of words we can add or think about.

The other thing, I don't think you mentioned this, Robert, but there will be a "listen and learn" session scheduled just almost immediately after the last "deliberative dialogue" in June. So, there will be an opportunity for folks to comment and respond to draft conceptual rules.

Chair Postman: Great.

Mr. DeSpain: And to that point, I'm going to brief you on a high level view of the timeline tomorrow during the Board meeting. We did consider that when determining when we were going to try and present the CR 102, and so that's likely going to be September 14th. We wanted to make sure there was enough time for both the "deliberative dialogues" and the "listen and learn" sessions to occur, to allow for the feedback from stakeholders and industry.

Chair Postman: And, when do we think we'd be done with this, then? If that schedule holds? We'd do the CR 102 in September?

Mr. DeSpain: Sure, so the 102 would be – and this is all tentative...

Chair Postman: Right, so we won't hold you to it. (laughter)

Mr. DeSpain: Okay, good. The 102 would be September 14th, and then the public hearing would be October 26th. And, the CR 103 would be November 23rd. Now, that's if everything goes accordingly – and that would mean the rules would go into effect on December 24th, just in time for Christmas.

Chair Postman: Okay. Great. Thank you.

Mr. DeSpain: I'll hand it back to Kathy if there aren't any other questions?

Chair Postman: We're good, thank you.

Ms. Hoffman: I think that's all we had. Thanks, everyone.

Chair Postman: Okay, thank you, Kathy, appreciate that.

BOARD MEMBER AND EXECUTIVE ASSISTANT REPORTS

Chair Postman: I will be gone for vacation, I won't be there for the board meeting tomorrow, or the caucus next week. But, after that I will be back. I'm reachable, of course, Dustin can always find me. Member Garrett will be acting chair, yes?

Member Garrett: Yes.

Chair Postman: And then I'll also miss litigation review next week, too, but I'll talk to the litigation and adjudication team about that. Anything to report from the members?

Ollie Garrett: This is Ollie, I have nothing to report. And, can I say, I have actually just been staring at Dustin's frozen face on my screen the whole time. It's like he's just there, frozen, and I have not seen any other faces. But I stayed put to make sure I can hear...

Chair Postman: It all work out, that's good. (laughter)

Dustin Dickson: That's not really fair, because when faces freeze, it's never flattering, so she's not staring at a good picture of me. (laughter)

Member Garrett: That's all I could see on my screen was your frozen face. I have not seen any other faces, but as long as I knew I was being heard, and I could hear, I wasn't going to touch the computer. (laughter)

Chair Postman: Yes, we both were having some weird computer problems, today. So, I hope that works out. Member Vollendroff, anything?

Member Vollendroff: No, I made it into my second week, and I have to say that last week I was able to participate in some employee recognition for public employees' recognition, and was able to meet a number of LCB employees, and supervisors, and directors, and it was – I am very impressed with what I have seen so far, and am enjoying what I'm doing, and look forward to continuing to do this work.

Chair Postman: That's great. I didn't want to say anything, but it's always exciting when someone shows up for their second caucus meeting. That's a good sign. (laughter)

Regarding the employee engagement event, which Dustin played a key role in, both in the online version, and the in-person, they were great. They were really something. You know, on Thursday of last week, they had what was supposed to be this drive-through event where people would come, we'd give them some little, you know, tchotchkes, to thank them for their work. It was pouring rain, cold, nobody drove through, they all stopped, they got out of their car, hung out, you know, we were all outside, kind of under a tent, kind of not, and, people just really seemed to be enjoying that, time, I know they were excited to have a chance to meet you, too, Jim, so that was cool, it worked out well.

Member Vollendroff: Yes.

Chair Postman: Dustin, anything?

Mr. Dickson: Nothing additional for me, thank you.

Chair Postman: All right, great. With that, we will adjourn the caucus meeting, for May 10th, and you all have a good week, I'll see you next week.

Member Vollendroff: Have a great time off.

Chair Postman: Thanks, bye bye.

Member Garrett: Bye bye.

Meeting adjourned at 10:24am.

Minutes approved this 22nd day of June, 2022.



David Postman
Board Chair



Ollie Garrett
Board Member



Jim Vollandroff
Board Member

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