



**Washington State
Liquor and Cannabis Board**

Date: August 31, 2022

To: David Postman, Board Chair
Ollie Garrett, Board Member
Jim Vollendroff, 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, Director of Licensing and Regulation
Chandra Brady, Director of Enforcement and Education
Kathy Hoffman, Policy and Rules Manager

Subject: **Approval to file a pre-proposal statement of inquiry (CR 101) regarding cannabis plant canopy measurement.**

The Washington State Liquor and Cannabis Board (WSLCB) is considering changes to WAC 314-55-010(31) and WAC 314-55-075 to review cannabis plant canopy rules.

Process

The Policy and Rules Coordinator requests approval to file the pre-proposal statement of inquiry (CR 101) for the rule making described above. A CR 101 Memorandum was presented at the Board meeting on August 31, 2022 and is attached to this order.

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

August 31, 2022	Board is asked to approve filing pre-proposal statement of inquiry (CR 101). CR 101 filed with the Office of the Code Reviser. LCB webpage updated and notice circulated by GovDelivery distribution list. Informal comment period begins.
September 21, 2022	Notice is published in the Washington State Register under WSR issue #22-18.
October 21, 2022	The informal comment period ends.
January 18, 2023	Board is asked to approve filing proposed rules (CR 102). CR 102 is filed with the Office of the Code Reviser.

	LCB webpage is updated and notice is circulated by the rules distribution list. The formal comment period begins.
Feb 1, 2023	Notice is published in the Washington State Register under WSR issue #23-03.
March 1, 2023	Public hearing is held and the formal comment period ends.
March 29, 2023	Board is asked to adopt rules, if no substantive changes are made (CR 103). Concise explanatory statement is provided to individuals offering written or oral comment at the public hearing or during the formal comment period under RCW 34.05.325. CR 103 and adopted rules are filed with the Office of the Code Reviser. LCB webpage is updated and notice is circulated by the rules distribution list.
April 29, 2023	The rules are effective 31 days after filing unless otherwise specified. See RCW 34.05.380(2).

_____ Approve _____ Disapprove _____
David Postman, Chair _____
Date

_____ Approve _____ Disapprove _____
Ollie Garrett, Board Member _____
Date

_____ Approve _____ Disapprove _____
Jim Vollendroff, Board Member _____
Date

Attachment: CR 101 Memorandum.



CR 101 Memorandum

Regarding cannabis plant canopy.

Date: August 31, 2022

Presented by: Jeff Kildahl, Policy and Rules Coordinator

Background

WAC 314-55-075, adopted in 2013 with the implementation of Initiative 502, outlines privileges, requirements, and fees for cannabis producer licensees, including guidelines for the maximum area that a producer licensee may dedicate to cannabis production. The area of the producer licensee's premises dedicated to live plant production is called plant canopy and is defined in WAC 314-55-010(31), and includes the area dedicated to live plant production, including maintaining mother plants, propagating plants from seed to plant tissue, clones, and vegetative and flowering areas.

Cannabis producers are limited by their license types to the amount of square footage area they can dedicate to cannabis plant production. WAC 314-55-075 designates three tiers of licenses:

- Tier 1 – Less than 4,000 square feet, increased from less than 2,000 square feet in 2021;
- Tier 2 – Four thousand square feet up to 10,000 square feet; and
- Tier 3 – Ten thousand square feet up to 30,000 square feet.

Reasons Why Rules May Be Needed

The LCB may consider amending, repealing, and creating new rules on this subject as part of a review of plant canopy at licensed cannabis producer locations. Cannabis producers utilize a wide range of techniques and configurations in plant cultivation.

Process

The rule making process begins by announcing the Board's intent to consider changes to existing rules, adding new rule sections, or both by filing a CR 101 form with the Office of the Code Reviser. This allows staff, stakeholders, industry

partners, and all members of the authorizing environment to begin discussing proposed rule changes.

At the CR 101 stage of the rulemaking process, no proposed language is offered. Any interested party may comment on the subject of this possible rulemaking during the designated comment period. Notice will be sent to all who have indicated that they want to receive notice of rule activity pertaining to this pre-proposal inquiry. The notice will identify the public comment period and where comments can be sent.

PREPROPOSAL STATEMENT OF INQUIRY



CR-101 (October 2017) (Implements RCW 34.05.310) Do NOT use for expedited rule making

Agency: Washington State Liquor and Cannabis Board

Subject of possible rule making: The Washington State Liquor and Cannabis Board (WSLCB) is considering creating new rules regarding plant canopy, and amending or repealing rules regarding plant canopy including WAC 314-55-075 and WAC 314-55-010(31).

Statutes authorizing the agency to adopt rules on this subject: RCW 69.50.342 and 69.50.345

Reasons why rules on this subject may be needed and what they might accomplish: Cannabis producers utilize a wide range of techniques and configurations in plant cultivation.

Rulemaking may be necessary to create, amend or repeal the rules on plant canopy after review.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: None

Process for developing new rule (check all that apply):

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe) Collaborative rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:

	(If necessary)
Name: Jeff Kildahl, Policy and Rules Coordinator	Name:
Address: PO Box 43080, Olympia, WA 98504	Address:
Phone: 360-664-1781	Phone:
Fax: 360-664-9689	Fax:
TTY:	TTY:
Email: rules@lcb.wa.gov	Email:
Web site: www.lcb.wa.gov	Web site:
Other:	Other:

Additional comments: Interested persons can participate in the rule process through open public meetings and by submitting written comments, and are encouraged to sign up for the interested parties list (GovDelivery) at <https://public.govdelivery.com/accounts/WALCB/subscriber/new>. Rule-making notices and stakeholder engagement opportunities will be emailed via GovDelivery and posted to the WSLCB website at lcb.wa.gov.

Date: August 31, 2022

Name: David Postman

Title: Chair

Signature:

Place signature here