



**Washington State  
Liquor and Cannabis Board**

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**Date:** July 31, 2024

**To:** David Postman, Board Chair  
Ollie Garrett, Board Member  
Jim Vollendroff, Board Member

**From:** Daniel Jacobs, Policy and Rules Coordinator

**Copy:** Will Lukela, Agency Director  
Toni Hood, Agency Deputy Director  
Becky Smith, Director of Licensing and Regulations  
Chandra Wax, Director of Enforcement and Education  
Justin Nordhorn, Policy and External Affairs Director

**Subject: Board approval of proposed rules (CR 102) implementing E2SSB 5367 (“THC Bill”)**

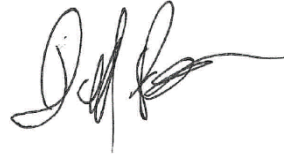
The Policy and Rules Manager requests approval to file a rule proposal (CR 102) to amend sections of chapter 314-55 WAC to implement Engrossed Second Substitute Senate Bill (E2SSB) 5367, concerning the regulation of products containing tetrahydrocannabinols, as described in the CR 102 Memorandum attached to this order and presented at the Board meeting on July 31, 2024.

If approved for filing, the tentative timeline for this rule proposal is as follows:

July 31, 2024	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 GovDelivery distribution list. Formal comment period begins.
August 21, 2024	Notice published in the Washington State Register under WSR 24-16.
September 11, 2024	Public hearing held and formal comment period ends.
No earlier than September 25, 2024	Board is asked to adopt rules if no substantive changes are made (CR 103). Concise Explanatory Statement provided to individuals who offered written or oral comment at the public hearing or 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 by GovDelivery distribution list.

October 26, 2024	Rules are effective 31 days after filing, unless otherwise specified. See RCW 34.05.380(2).
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Approve     Disapprove



David Postman, Chair

7.31.2024  
Date

Approve     Disapprove



Ollie Garrett, Board Member

7.31.2024  
Date

Approve     Disapprove

*Not Present*

Jim Vollendroff, Board Member

7.31.2024  
Date

Attachment: CR 102 Memorandum



## **CR 102 Memorandum**

### **Regarding chapter 314-55 WAC: Modifications to implement Engrossed Second Substitute Senate Bill 5367 (“THC Bill”) related to regulating products containing THC**

**Date:** July 31, 2024

**Presented by:** Cassidy B. West, Policy and Rules Manager

### **Background**

Engrossed Second Substitute Senate Bill (E2SSB) 5367, chapter 365, Laws of 2023, enacted on July 23, 2023, was introduced to address the increasing prevalence and complexity of products containing various tetrahydrocannabinols (THC) that emerged in the market beginning in 2018. The legalization of hemp under the 2018 Farm Bill acted as a catalyst for these products, by allowing the cultivation and processing of hemp containing less than 0.3% delta-9 THC. However, this legislation inadvertently created a loophole by not explicitly regulating other cannabinoids, like delta-8 THC. In response, producers began extracting CBD from hemp and converting it into synthetic THC compounds, leading to a rapid expansion of THC products in the unregulated market. To rectify these regulatory oversights and prioritize consumer safety and public health, legislative measures were necessary to address the issue.

The CR-101 initiating rulemaking to amend or repeal sections of WAC 314-55 related to THC compounds, consistent with the Administrative Procedures Act (APA), chapter 34.05 RCW was filed on June 21, 2023, as WSR 23-13-129.

Rules were formulated in coordination and collaboration with representatives from LCB’s Enforcement and Education Division, Licensing and Regulation Division, and Finance Division. Additionally, LCB staff worked closely with representatives from the Department of Health (DOH) and Washington State Department of Agriculture (WSDA), deliberating during regularly scheduled Collaborative Laboratory Services Program (CLASP) meetings to ensure uniform standards and facilitate a seamless implementation of the regulatory modifications.

### **Reason Rulemaking is Necessary**

The board is granted broad statutory authority to adopt rules related to the production, manufacturing, possession, sale, and distribution of cannabis and

cannabis products under RCW 69.50.342 and RCW 69.50.345. Rulemaking is necessary to implement Engrossed Second Substitute Senate Bill (E2SSB 5367) 5367 (chapter 365, Laws of 2023), related to the regulation of products containing THC, enacted July 23, 2023. Furthermore, rulemaking is required to align state regulations with statutory changes made to RCW 69.50.360 resulting from Substitute House Bill (SHB) 1249, (chapter 9, Laws of 2024), regarding transaction limits on cannabis-infused products in liquid form with low-THC content.

Several sections of chapter 314-55 WAC require modifications to align the changes resulting from the legislation, as follows:

1. WAC 314-55-010 - Definitions
2. WAC 314-55-095 - Cannabis servings and transaction limits
3. WAC 314-55-102 - Quality assurance and quality control testing
4. WAC 314-55-105 - Packaging and labeling
5. WAC 314-55-106 - Cannabis warning symbol requirement
6. WAC 314-55-109 - Cannabinoid additives

## Public Engagement

Extensive public engagement has been conducted to inform the proposed rules, including surveys, virtual webinars, and written comments. Key stakeholders included cannabis licensees, testing labs, members from Tribes, public health and prevention partners, advocacy groups, industry associations, medical cannabis patients, and hemp industry representatives. The informal comment period was opened from June 21, 2023 until February 3, 2024. Comments provided after the informal comment period were also considered in the rule development.

1. **December 2023 Collaborative Rule Making Discussions:** On December 15, 19, and 21, 2023 collaborative rulemaking discussions were held to review and discuss regulatory policy options and gather feedback on potential rule changes. Key concepts for implementing the legislation, included options for addressing measuring, reporting, and labeling THC concentration and establishing a detectable level for THC compounds.
2. **January 2024 Stakeholder Survey:** A survey was disseminated on January 22, 2024, to gather feedback from additional stakeholders who were unable to attend the December discussions. The survey closed on January 31, 2024, and there were 234 respondents, including a wide array of affiliations as detailed above.
3. **April – May 2024 Rule Making Workshops:** Virtual sessions held in April and May 2024 further refined the draft rules, incorporating stakeholder suggestions to improve clarity.

Stakeholder feedback played a crucial role in shaping the proposed regulations, ensuring they are practical, enforceable, and protective of both consumers and industry participants.

## Estimated Costs of Compliance

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. The industry descriptions for this code 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).

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)
453998	\$2000	Marijuana stores, medicinal and recreational	All Other Miscellaneous Store Retailers (except Tobacco Stores)	\$5,304.30	\$3,265.02 2021 Dataset pulled from ESD	\$5,304.40 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).

## Small Business Impact Statement

Licensed processors may face costs associated with new labeling requirements for total THC and serving sizes, including, but not limited to, staff time resources. At this time, we are not aware of cannabis-infused products that have THC compounds, other than delta-9, present in amounts greater than the established threshold in the proposed rules for maximum serving size limits.

The LCB plans to support businesses through educational resources and potential phased implementation strategies to mitigate the impact.

## Description of Rule Changes

1. **WAC 314-55-010 Definitions:** References to new and existing definitions in statute or rule are added to the definitions to ensure consistency with the legislation being implemented. The following definitions from RCW 69.50.101 are referenced: “cannabis,” “cannabis products,” “CBD concentration,” “cannabis concentrates,” “cannabis-infused products,” “package,” “THC concentration,” and “unit.” The following definitions from RCW 69.50.204 are referenced: “tetrahydrocannabinols” and “synthetic cannabinoid.” A new definition of “total THC” is created. “Total THC” means any tetrahydrocannabinol, as defined in chapter 69.50 RCW, that is detected during the product testing process that exceeds the established threshold, measured in mg/g, taking into account the conversion from acidic to neutral form. A new definition for “WSDA” is added referring to the Washington state department of agriculture.
2. **WAC 314-55-095 Cannabis servings and transaction limits:** The proposed rules limit the maximum amount of THC that may be in a single serving to 10 mg of active delta-9 THC, and limit the maximum amount of THC that may be in a single package to 100 mg of active delta-9 THC. These limits are consistent with current industry standards and products available on the market. A new requirement is proposed limiting the amount of any additional single tetrahydrocannabinol compound to not exceed 0.5 mg/g per serving and the combined concentration of additional tetrahydrocannabinol compounds to 1 mg per serving. “Unit” was replaced with “package” to align with new statutory definitions of “package” and “unit” created by the legislation. New limits to implement SHB 1249 (chapter 9, Laws of 2024) related to low THC beverages are added.
3. **WAC 314-55-102 - Quality assurance and quality control testing:** Testing for THC is only required specifically for delta-9 THC and delta-9 THCA as these are the most predominant naturally occurring cannabinoid in the plant; the proposed rules do not necessitate testing for any additional specific THC compounds. Despite the legislation broadening the definition of “THC concentration” to encompass the range of compounds falling under the statutory definition of “tetrahydrocannabinols,” the levels of other THC compounds, such as delta-8 THC and THCV, remain insignificantly low (less than 1% by weight). Furthermore, research on cannabinoid compounds remains limited. A new requirement is added mandating testing and reporting test results for every THC compound that is labeled, advertised, or marketed as part of the product. The term “potency analysis” is replaced by “cannabinoid concentration analysis” to align with WSDA regulations outlined in new chapters 16-309 and 16-310. The equation for calculating total THC is adjusted to reflect the new definition in WAC 314-55-010. Total THC must be

calculated for delta-9 THC, and must also be individually calculated for any additional tetrahydrocannabinol compound detected above 0.2 mg/g. The calculation for total delta-9 THC by combining delta-9 THC with delta-9 THC using a conversion of 0.877 applied to delta-9 THCA is maintained. Any additional tetrahydrocannabinol compounds reported require specific conversion factors for the individual tetrahydrocannabinol compounds based on the molar mass of the compound. This adjustment ensures that in the instance of testing for any other THC compound where the presence exceeds 0.2 mg/g, the formula is applicable for that specific compound. The term “certified laboratory” is clarified to specify the term means a laboratory that is certified by the board. The term “accreditation” is removed to reflect the transfer of cannabis testing laboratory accreditation to WSDA under 2SHB 2151 (chapter 69, laws of 2024) and reference to WSDA new accreditation rules (chapter 16-310) has been inserted. Additional changes to align with 2SHB 2151 will be addressed in a separate rulemaking. The term “container(s)” is replaced by “packaging” to align with statute.

4. **WAC 314-55-105 - Packaging and labeling:** The term “containers” has been removed and “packaging” is used. New labeling requirement that a total THC concentration, using formula in WAC 314-55-102, is calculated for any individual tetrahydrocannabinol compound present in amounts greater than 0.2 mg/g. New language is added describing serving size for all products, as “the amount of product per serving”. References to “unit” are replaced with “package” for consistency with the new statutory definitions. For cannabis edibles in liquid form, “package” replaces “bottle” and indicates measuring device includes package cap.
5. **WAC 314-55-106 - Cannabis warning symbol requirement:** The term “package” replaces “container(s)” to align with the new statutory definitions of “unit” and “package.”
6. **WAC 314-55-109 - Cannabinoid additives.** Requirements for using CBD as a product additive from a non-licensed source are amended for consistency with the statutory definitions of “cannabis” and “cannabis products” modified by E2SSB 5367. References to “potency analysis” are replaced with “cannabinoid concentration analysis,” consistent with the proposed changes in WAC 314-55-102. Clarifies that licensees must use a lab certified by the board to screen products.
7. **Amended Sections - Title 314-55 WAC:** The agency acronym “WSLCB” was replaced with “LCB,” consistent with WSR # 34-11-037, in the amended sections described above.

# PROPOSED RULE MAKING



## CR-102 (June 2024) (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 23-13-129 ; 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) Rule language is being proposed to amend sections of Title 314-55 WAC to implement of Engrossed Second Senate Bill (E2SSB) 5367, (chapter 365, Laws of 2023), concerning the regulation of products containing THC, codified as RCW 69.50.101, RCW 69.50.1025, RCW 69.50.326, RCW 69.50.346, and enacted on July 23, 2023. Rule language is also being proposed to WAC 314-55-095 to implement Substitute House Bill (SHB) 1249, (chapter 9, Laws of 2024), regarding limits on the possession and sale of cannabis products, codified as RCW 69.50.360, enacted on June 9, 2024.

Several sections of chapter 314-55 WAC require modifications to align the changes resulting from the legislation, as follows:

WAC 314-55-010 Definitions

WAC 314-55-095 Cannabis servings and transaction limits

WAC 314-55-102 - Quality assurance and quality control testing

WAC 314-55-105 - Packaging and labeling

WAC 314-55-106 - Cannabis warning symbol requirement

WAC 314-55-109 - Cannabinoid additives

**Hearing location(s):**

<b>Date:</b>	<b>Time:</b>	<b>Location:</b> (be specific)	<b>Comment:</b>
September 11, 2024	10:00 A.M.	All public Board activity will be held in a "hybrid" environment. This means that the public will have options for in-person or virtual attendance. The Board room headquarters building in Olympia (1025 Union Avenue, Olympia, WA 98504) will be open for in-person attendance and the public may also login using a computer or a 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. TVW also regularly airs these meetings. Please note that although the Boardroom will be staffed during a meeting, Board members and agency participants may continue to appear virtually.	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:** No earlier than September 25, 2024

(Note: This is **NOT** the effective date)

**Submit written comments to:**

Name Cassidy West, Policy and Rules Manager  
Address PO Box 48030, Olympia WA 98504-3080  
Email rules@lcb.wa.gov  
Fax 360-704-5027  
Other

Beginning (date and time) July 31, 2024, 12:00 PM

By (date and time) September 11, 2024, 12:00 PM

**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) September 4, 2024

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The proposed rules are intended to implement the statutory changes resulting from the passage of E2SSB 5367, which mandates stricter regulations on products containing THC due to increasing concerns about public health and safety, and sets guidelines for THC content in consumable products by providing clear distinctions between hemp and cannabis products under state law. The bill specifically targets the regulation of THC concentrations, and product packaging and labeling to mitigate the risks of overconsumption and accidental ingestion, particularly by minors. It also creates a new section explicitly banning the production, manufacturing, sale, or distribution of synthetic and semi-synthetic cannabinoids.

The proposed rule also include language reflecting the statutory changes resulting from Substitute House Bill (SHB) 1249, (chapter 9, Laws of 2024), regarding the limits on the sale and possession of retail cannabis products. The bill introduces a new category for low-dose liquid cannabis products, allowing cannabis retailers to sell larger quantities in a single transaction. However, the current regulations create obstacles for consumers looking to purchase and companies wanting to produce these products in liquid form. For instance, Initiative 502 limited the volume of liquid cannabis products to 72 ounces regardless of the THC content. This means that a consumer interested in a low-dose cannabis beverage can only buy a limited amount, while someone purchasing a different liquid cannabis product can buy the maximum 72 ounces even if it contains higher THC levels. The current regulatory framework does not support the development of low-THC cannabis products, leading to a bias towards high-THC products. The proposed rules amend WAC 314-55-095 – Cannabis servings and transaction limits, to allow for the sale of low-THC beverages, consistent with SHB 1249.

The proposed rules will:

1. Establish maximum allowable THC content in cannabis products to ensure consumer safety.
2. Introduce more stringent labeling requirements to provide clearer information on THC content.
3. Adjust quality control testing requirements to include testing for additional tetrahydrocannabinol compounds, as defined in RCW 69.50.204.
4. Align transaction limits for cannabis-infused products in liquid form with state law, authorizing retailers to sell 200 milligrams of THC within a cannabis-infused product in liquid form, to a retail customer, if the product is packaged in units containing no more than 4 milligrams of THC per unit. The authorization is in addition to the current authorization for licensed retailers and their employees to sell specified amounts of different cannabis products to a retail customer in a single transaction.

Several sections of chapter 314-55 WAC require modifications to align the changes resulting from the legislation, as follows:

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insignificantly low (less than 1% by weight). Furthermore, research on cannabinoid compounds remains limited. A new requirement is added mandating testing and reporting test results for every THC compound that is labeled, advertised, or marketed as part of the product. The term "potency analysis" is replaced by "cannabinoid concentration analysis" to align with WSDA regulations outlined in new chapters 16-309 and 16-310. The equation for calculating total THC is adjusted to reflect the new definition in WAC 314-55-010. Total THC must be calculated for delta-9 THC, and must also be individually calculated for any additional tetrahydrocannabinol compound detected above 0.2 mg/g. The calculation for total delta-9 THC by combining delta-9 THC with delta-9 THC using a conversion of 0.877 applied to delta-9 THCA is maintained. Any additional tetrahydrocannabinol compounds reported require specific conversion factors for the individual tetrahydrocannabinol compounds based on the molar mass of the compound. This adjustment ensures that in the instance of testing for any other THC compound where the presence exceeds 0.2 mg/g, the formula is applicable for that specific compound. The term "certified laboratory" is clarified to specify the term means a laboratory that is certified by the board. The term "accreditation" is removed to reflect the transfer of cannabis testing laboratory accreditation to WSDA under 2SHB 2151 (chapter 69, laws of 2024) and reference to WSDA new accreditation rules (chapter 16-310) has been inserted. Additional changes to align with 2SHB 2151 will be addressed in a separate rulemaking. The term "container(s)" is replaced by "packaging" to align with statute.

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Furthermore, the agency acronym "WLSCB" was replaced with "LCB," consistent with WSR # 34-11-037, in the amended sections described above.

The anticipated effects of these rules are multi-faceted, aiming to enhance public health and safety through better-informed consumer choices and reduced risk of overconsumption and accidental exposure:

1. By capping THC levels of specific THC compounds and enhancing labeling, consumers will be better able to manage dosage, potentially reducing incidents related to overconsumption.
2. Clearer, more informative labels will empower consumers to informed decisions regarding their cannabis consumption.
3. Provide clear guidelines for cannabis licensees, aiding in compliance and enforcement efforts, thus ensuring that all market participants adhere to standardized practices regarding THC content in products.

**Reasons supporting proposal:** Aligns state regulations with recent legislative changes, enhancing consumer protection, and clarifying the status of hemp-derived products.

**Statutory authority for adoption:** RCW 69.50.342 and RCW 69.50.345, as amended by E2SSB 5367 and SHB 1249

**Statute being implemented:** E2SSB 5367, (chapter 365, laws of 2023) and SHB 1249, (chapter 9, Laws of 2024)

**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

**Type of proponent:**  Private.  Public.  Governmental.

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting Rules Manager	Cassidy West, Policy and	1025 Union Avenue, Olympia, WA 98504	360-480-1238

Implementation Rebecca Smith, Licensing and Regulation 1025 Union Avenue, Olympia, WA 9850 360-664-1753

Enforcement Chandra Wax, Director of Enforcement and Education 1025 Union Avenue, Olympia, WA 9850 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 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 and Small Business Economic Impact Statement**

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

**(1) Identification of exemptions:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). 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:

- |   |  |
|---|--|
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(b)<br>(Internal government operations) | <input checked="" type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(e)<br>(Dictated by statute)  |
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(c)<br>(Incorporation by reference)     | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(f)<br>(Set or adjust fees)  |
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(d)<br>(Correct or clarify language)    | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(g)<br>((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\(4\)](#). (Does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW 34.05.310(4)(e).

Explanation of how the above exemption(s) applies to the proposed rule: This rule proposal is exempt because it involves agency actions that are mandated by statute, implementing Engrossed Second Substitute Senate Bill (E2SSB) 5367, chapter 365, Laws of 2023, to regulate consumable products containing tetrahydrocannabinols.

**(2) Scope of exemptions:** *Check one.*

- The rule proposal: Is fully exempt. (*Skip section 3.*) Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal: Is partially exempt. (*Complete section 3.*) The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- The rule proposal: Is not exempt. (*Complete section 3.*) No exemptions were identified above.

**(3) Small business economic impact statement:** *Complete this section if any portion is not exempt.*

If any portion of 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 minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. \_\_\_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. The industry descriptions for this code 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).


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)
453998	\$2000	Marijuana stores, medicinal and recreational	All Other Miscellaneous Store Retailers (except Tobacco Stores)	\$5,304.30	\$3,265.02 2021 Dataset pulled from ESD	\$5,304.40 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 the required small business economic impact 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

<p><b>Date:</b> July 31, 2024</p> <hr/> <p><b>Name:</b> David Postman</p> <hr/> <p><b>Title:</b> Chair</p>	<p><b>Signature:</b></p> 
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**WAC 314-55-010 Definitions.** The following definitions apply for the purpose of this chapter in addition to the definitions provided in RCW 69.50.101.

(1) "Applicant" or "cannabis license applicant" means any person or business entity who is considered by the ~~LCB~~<sup>WSLCB</sup> as a true party of interest in a cannabis license, as outlined in WAC 314-55-035. However, for purposes of determining an application's priority under RCW 69.50.331 (1)(a), only the person or business entity that is applying for the license will be considered the applicant.

(2) "Batch" means a quantity of cannabis-infused product containing material from one or more lots of cannabis.

(3) "Business name" or "trade name" means the name of a licensed business as used by the licensee on signs and advertising.

(4) "Cannabis" has the meaning provided in RCW 69.50.101.

(5) "Cannabis concentrates" has the meaning provided in RCW 69.50.101.

(6) "Cannabis-infused products" has the meaning provided in RCW 69.50.101.

(7) "Cannabis mix" means an intermediate lot that contains multiple strains of useable cannabis and is chopped or ground so no particles are greater than 3 mm.

(8) "Cannabis mix infused" or "mix infused" means an end product that contains cannabis mix and may contain other intermediate products or useable cannabis.

(9) "Cannabis mix packaged" or "mix packaged" means an end product containing only cannabis mix and no other product types.

(10) "Cannabis products" has the meaning provided in RCW 69.50.101.

(11) "Cannabis strain" means a pure breed or hybrid variety of Cannabis reflecting similar or identical combinations of properties such as appearance, taste, color, smell, cannabinoid profile, and potency.

(12) "CBD concentration" has the meaning provided in RCW 69.51A.010.

(13~~4~~) "Characterizing flavor" means a noticeable taste, other than one of cannabis, resulting from an additive or combination of additives including, but not limited to, fruit, spice, herbs, alcohol, candy, or menthol, or that is noticeable before or during consumption of the cannabis product.

(14~~5~~) "Child care center" means an entity that regularly provides child day care and early learning services for a group of children for

periods of less than 24 hours licensed by the Washington state department of early learning under chapter 170-295 WAC.

(~~156~~) "Consultant" means an expert who provides advice or services in a particular field, whether a fee is charged or not. A consultant who is in receipt of, or has the right to receive, a percentage of the gross or net profit from the licensed business during any full or partial calendar or fiscal year is a true party of interest and subject to the requirements of WAC 314-55-035. A consultant who exercises any control over an applicant's or licensee's business operations is also subject to the requirements of WAC 314-55-035(4).

(~~167~~) "Cooperative" means a group of more than one, but no more than four qualified medical cannabis patients and/or designated providers who share responsibility for growing and processing cannabis only for the medical use of the members of the cooperative.

(~~178~~) "Domicile" means a person's true, fixed, primary permanent home and place of habitation and the tax parcel on which it is located. It is the place where the person intends to remain and to which the person expects to return when the person leaves without intending to establish a new domicile elsewhere.

(~~18~~)<sup>9</sup> "Elementary school" means a school with a physical location for early education that provides the first four to eight years of basic education and recognized by the Washington state superintendent of public instruction.

(~~19~~<sup>10</sup>) "Employee" means any person performing services on a licensed premises for the benefit of the licensee whether or not such person is compensated by the licensee.

(~~20~~<sup>11</sup>) "End product" means a cannabis product that requires no further processing prior to retail sale.

(~~21~~)<sup>12</sup> "Financier" means any person or entity, other than a banking institution, that provides money as a gift or loans money to the applicant/business and expects to be paid back the amount of the loan with or without reasonable interest.

(22)<sup>(13)</sup> "Game arcade" means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under 21~~twenty one~~ years of age are not restricted.

(~~23~~<sup>14</sup>) "Harvest" means the cannabis plant material derived from plants of the same strain that were cultivated at the same licensed location and gathered at the same time.



(~~24~~)<sup>15</sup> "Immature plant or clone" means a cannabis plant or clone that has no flowers, is less than 12 inches in height, and is less than 12 inches in diameter.

(~~25~~)<sup>16</sup> "Intermediate product" means cannabis flower lots or other material lots that have been converted by a cannabis processor to a cannabis mix lot, cannabis concentrate or cannabis-infused product that must be or are intended to be converted further to an end product.

(~~26~~)<sup>17</sup> "Library" means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.

(~~27~~)<sup>18</sup> "Licensed premises" means all areas of a premises where the licensee has leasehold rights as listed in the property lease submitted to the board. Any vehicle assigned for the purposes of transporting cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products shall be considered an extension of the licensed premises.

(~~28~~)<sup>19</sup> "Licensee" or "cannabis licensee" means any person or entity that holds a cannabis license, or any person or entity who is a true party of interest in a cannabis license, as outlined in WAC 314-55-035.

(~~2920~~) "Lot" means either of the following:

(a) The flowers from one or more cannabis plants of the same strain. A single lot of flowers cannot weigh more than five pounds; or

(b) The trim, leaves, or other plant matter from one or more cannabis plants. A single lot of trim, leaves, or other plant matter ~~cannot weigh more than 15 pounds.~~

(~~3021~~) "Lozenge" means a cannabis-infused product such as a hard candy, mint, pastille, tablet, or similar type of edible product that is generally swallowed whole, chewed and swallowed, or dissolved in the mouth.

~~(31) (22) "Cannabis strain" means a pure breed or hybrid variety of Cannabis reflecting similar or identical combinations of properties such as appearance, taste, color, smell, cannabinoid profile, and potency.~~

~~(23) "Cannabis mix" means an intermediate lot that contains multiple strains of useable cannabis and is chopped or ground so no particles are greater than 3 mm.~~

~~(24) "Cannabis mix infused" or "mix infused" means an end product that contains cannabis mix and may contain other intermediate products or useable cannabis.~~

~~(25) "Cannabis mix packaged" or "mix packaged" means an end-product containing only cannabis mix and no other product types.~~

~~(26)~~ "Member," except as that term is used in relation to registered cooperatives, means a principal or governing person of a given entity including, but not limited to: LLC member/manager, president, vice president, secretary, treasurer, CEO, director, stockholder, partner, general partner, limited partner. This includes all spouses of all principals or governing persons named in this definition and referenced in WAC 314-55-035.

(32) "Package" has the meaning provided in RCW 69.50.101.

(33)~~(27)~~ "Paraphernalia" means items used for the storage or use of useable cannabis, cannabis concentrates, or cannabis-infused products, such as, but not limited to, lighters, roach clips, pipes, rolling papers, bongs, and storage containers. Items for growing, cultivating, and processing cannabis, such as, but not limited to, butane, lights, and chemicals are not considered "paraphernalia."

(34)~~(28)~~ "Pesticide" means, but is not limited to: (a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally

considered to be a pest; (b) any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and (c) any spray adjuvant. Pesticides include substances commonly referred to as herbicides, fungicides, insecticides, and cloning agents.

(~~35~~)<sup>29</sup> "Perimeter" means a property line that encloses an area.

(~~3630~~) "Plant" means a cannabis plant.

(~~3731~~) "Plant canopy" means the square footage dedicated to live plant production, such as maintaining mother plants, propagating plants from seed to plant tissue, clones, vegetative or flowering area. Plant canopy does not include areas such as space used for the storage of fertilizers, pesticides, or other products, quarantine, office space, etc.

(~~3832~~) "Playground" means a public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a city, county, state, federal government, or metropolitan park district.

(~~3933~~) "Product(s) otherwise taken into the body" means a cannabis-infused product for human consumption or ingestion intended for uses other than inhalation, oral ingestion, or external application to the skin.

(~~4034~~) "Public park" means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government, or metropolitan park district. Public park does not include trails.

(~~4135~~) "Public transit center" means a facility located outside of the public right of way that is owned and managed by a transit agency or city, county, state, or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.

(~~42~~)<sup>36</sup>—"Recreation center or facility" means a supervised center that provides a broad range of activities and events intended primarily for use by persons under 21 years of age, owned and/or managed by a charitable nonprofit organization, city, county, state, federal government, or metropolitan park district.

(~~43~~)<sup>37</sup>—"Residence" means a person's address where he or she physically resides and maintains his or her abode.

(~~4438~~) "Secondary school" means a high and/or middle school with a physical location: A school for students who have completed their

primary education, usually attended by children in grades seven to 12 and recognized by the Washington state superintendent of public instruction.

(~~4539~~) "Selling price" means the same meaning as in RCW 82.08.010, except that when the product is sold under circumstances where the total amount of consideration paid for the product is not indicative of its true value. Selling price means the true value of the product sold as determined or agreed to by the LCBWSLCB. For purposes of this subsection:

(a) "Product" means cannabis, cannabis concentrates, useable cannabis, or cannabis-infused products; and

(b) "True value" means market value based on sales at comparable locations in the state of the same or similar product of like quality and character sold under comparable conditions of sale to comparable purchasers. In the absence of such sales of the same or similar product, true value means the value of the product sold as determined by all of the seller's direct and indirect costs attributed to the product.

(46) "Synthetic cannabinoid" includes any chemical compound identified in RCW 69.50.204 (c)[(3)](30)[(dd)] or by the pharmacy quality assurance commission under RCW 69.50.201.

(47) ~~(40)~~—"Terpenes" means a class of compounds that impart smell, taste, or both occurring in the cannabis plant which consist of a carbon skeleton derived from isoprene units. The word "terpene" may include, but is not limited to, the following:

(a) "Botanical terpenes" means constituents derived from a spice, fruit, vegetable or vegetable juice, edible yeast, herb, bark, bud, root, or leaf or similar plant material. Their significant function in cannabis products is flavoring. This includes:

(i) Essential oil, which is natural oil typically obtained by distillation and possessing the characteristic fragrance of the plant or other source from which it is extracted;

(ii) Oleoresin, which is a natural or artificial mixture of essential oils and a resin;

(iii) Distillate; or

(iv) Any product of roasting, heating, or enzymolysis which contains terpenes.

(b) "Synthetic terpenes" means any terpene that does not occur in the cannabis plant, or in other botanical sources, and is produced through chemical manipulation in a laboratory or similar facility.

(c) "Terpenoids" means the natural products and related compounds formally derived from isoprene units, or "isoprenoids," that have the

same meaning as that found in the current version of the International Union of Pure and Applied Chemistry (IUPAC) and as hereafter amended.

(48) "Tetrahydrocannabinols" has the meaning provided in RCW 69.50.204.

(49) "Total THC" means any tetrahydrocannabinol, as defined in chapter 69.50 RCW, identified in the product testing process measured in milligrams per gram (mg/g), taking into account the conversion from acidic to neutral form.

(50) "THC concentration" has the meaning provide in RCW 69.50.101.

(51) "Unit" has the meaning provided in RCW 69.50.101.

~~(52) "LCB" (41) "Unit" means an individually packaged cannabis-infused solid or liquid product meant to be eaten or swallowed, not to exceed 10 servings or 100 milligrams of active tetrahydrocannabinol (THC), or Delta 9.~~

~~(42) "WSLCB" means the Washington state liquor and cannabis board.~~

(53) "WSDA" means the Washington state department of agriculture.

[Statutory Authority: RCW 69.50.342 and 2022 c 16 § 168. WSR 22-14-111, § 314-55-010, filed 7/6/22, effective 8/6/22. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 21-05-075, § 314-55-010,



filed 2/17/21, effective 3/20/21. Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-010, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-010, filed 5/18/16, effective 6/18/16; WSR 15-11-107, § 314-55-010, filed 5/20/15, effective 6/20/15. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-010, filed 10/21/13, effective 11/21/13.]

**WAC 314-55-095 Cannabis servings and transaction limitations.**

Personal possession limits and transaction limits are detailed in RCW 69.50.360 and 69.50.4013.

(1) For persons age 21 and older and qualifying patients or designated providers who are not entered into the medical cannabis authorization database, cannabis serving and transaction limitations are as follows:

(a) **Single serving.** A single serving of a cannabis-infused product must not exceed 10 milligrams of active delta-9 THC. Additional tetrahydrocannabinol compounds other than delta-9 THC may be present in the product, but any single tetrahydrocannabinol compound other than delta-9 THC must not exceed 0.5 milligrams per serving, and the combined concentration of additional tetrahydrocannabinol compounds must not exceed 1.0 milligram per serving. ~~active tetrahydrocannabinol (THC), or Delta 9.~~

(b) **Single package.** ~~Any~~ ~~Maximum number of servings.~~ ~~The maximum number of servings in any one single package~~ unit of cannabis-infused product meant to be eaten or swallowed or otherwise taken into the body must not exceed ~~is 10 servings or~~ 100 milligrams of active delta-9 THC.

(c) Single concentrate unit., ~~or Delta 9.~~ A single unit of cannabis concentrate cannot exceed one gram.

(~~d~~e) **Transaction limits.**

(i) A single transaction is limited to:

(A) One ounce of useable cannabis;

(B) 16~~Sixteen~~ ounces of cannabis-infused product meant to be eaten or swallowed in solid form;

(C) 7~~Seven~~ grams of cannabis-infused extract or cannabis concentrate for inhalation; and

(D) 72~~Seventy two~~ ounces of cannabis-infused product in liquid form for oral ingestion or applied topically to the skin; and

(E) 200 milligrams ~~Ten units~~ of active delta-9 THC of a cannabis-infused product in liquid form for oral ingestion or applied topically ~~to~~ otherwise taken into the skin, when the product is packaged in individual units containing no more than four milligrams of active delta-9 THC per unit ~~body.~~

(ii) A licensee or employee of a licensee is prohibited from conducting a transaction that facilitates an individual in obtaining more than the personal possession amount. \_

(2) For qualifying patients and designated providers who are entered into the medical cannabis authorization database, serving and transaction limits are as follows:

(a) **Single serving.** Except as provided in chapter 246-70 WAC, a single serving of a cannabis-infused product meant to be eaten, swallowed or applied must not exceed 10 milligrams of active delta-9 THC. Additional tetrahydrocannabinol compounds other than delta-9 THC may be present in the product, but any additional single tetrahydrocannabinol compound other than delta-9 THC must not exceed 0.5 milligrams per serving, and the combined concentration of additional tetrahydrocannabinol compounds must not exceed 1.0 milligrams per serving~~must not exceed 10 milligrams active tetrahydrocannabinol (THC), or Delta 9.~~

(b) **Single package.** A single package ~~Maximum number of cannabis servings.~~ Except as provided in chapter 246-70 WAC, the ~~maximum number of servings in any one single unit of cannabis-infused product meant to be eaten, swallowed or applied~~ must not exceed~~is 10 servings or~~ 100 milligrams of active delta-9 THC.

(c) **Single concentrate unit.**~~, or Delta 9.~~ A single unit of cannabis concentrate cannot exceed one gram.

(de) **Transaction limitation.** A single transaction by a retail store with a medical cannabis endorsement to a qualifying patient or designated provider who is entered into the medical cannabis database is limited to 3~~three~~ ounces of useable cannabis, 48 ounces of cannabis-infused product meant to be eaten or swallowed in solid form, 21 grams of cannabis-infused extract or cannabis concentrate for inhalation, and 216 ounces of cannabis-infused product in liquid form meant to be eaten or swallowed, and up to 200 mg of active delta-9 THC within a cannabis-infused product in liquid form meant to be eaten or swallowed if product is packaged in individual units containing no more than 4 milligrams of active delta-9 THC per unit.

[Statutory Authority: RCW 69.50.342 and 2022 c 16 § 168. WSR 22-14-111, § 314-55-095, filed 7/6/22, effective 8/6/22. Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-095, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-095, filed 5/18/16, effective 6/18/16; WSR 15-11-107, § 314-55-095, filed 5/20/15, effective 6/20/15. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-095, filed 10/21/13, effective 11/21/13.]

6/18/16.]

WAC 314-55-102 Quality assurance and quality control. (1)

Certified laboratory~~Lab certification and accreditation for quality control testing.~~ To become certified, a third-party lab must meet the board's certification and accreditation requirements as described in WAC 314-55-0995 and this chapter before conducting quality control tests required under this section. Cannabis licensees must use a laboratory certified by the board (certified laboratory) to conduct quality control testing required under this chapter. Prior to becoming certified, laboratories must be accredited by the Washington state department of agriculture as specified in chapter 16-309 WAC.

(a) Licensees~~(a) Certified labs~~ must use~~be~~ certified laboratories to conduct testing on cannabis and cannabis products in the required~~following~~ fields of testing:

- (i) Water activity;
- (ii) Cannabinoid concentration~~Potency~~ analysis;
- (iii) Foreign matter inspection;
- (iv) Microbiological screening;
- (v) Mycotoxin screening;
- (vi) Pesticide screening; and
- (vii) Residual solvent screening.

(b) Certified labs may be certified for heavy metal testing.

Certified labs must comply with the guidelines for each quality control field of testing described in this chapter if they offer that testing service.

(c) Certified labs may reference samples for mycotoxin, heavy metal, or pesticide testing by subcontracting for those fields of testing.

**(2) General quality control testing requirements for certified labs.**

(a) Certified labs must record an acknowledgment of the receipt of samples from producers or processors. Certified labs must also verify if any unused portion of the sample is destroyed after the completion of required testing.

(b) Certified labs must report quality control test results directly to the board in the required format.

(c) Product must not be converted, transferred, or sold by the licensee until the required tests are reported to the board and the licensee.

(d) Certified labs must fail a sample if the results for any limit test are above allowable levels regardless of whether the limit test is required in the testing tables in this chapter.

(e) Certified labs must test samples on an "as is" or "as received" basis.

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

(3) **Quality control analysis and screening.** The following analysis and screening are only required for samples that have not been previously tested, or that have failed quality control testing, as outlined below.

(a) **Cannabinoid concentrationPotency analysis.**

(i) A cannabinoid concentration analysis is required to determine the concentration of cannabinoid compounds present in cannabis and cannabis products. The results of the cannabinoid concentration analysis must be reported to the board in the state's traceability system.

(ii) The cannabinoid concentration analysis must include testing for at least the following cannabinoids:

~~(i) Certified labs must test and report the following cannabinoids to the board when testing for potency:~~

(A)



Cannabinoid	Lower Limit of Quantitation (mg/g)	CAS #
CBD	1.0	13956-29-1
CBDA	1.0	1244-58-2
$\Delta^9$ -THC	1.0	1972-08-3
$\Delta^9$ -THCA	1.0	23978-85-0

(B) Any tetrahydrocannabinol compound that is labeled, advertised, or marketed as part of the product;

~~(B) Total THC;~~

(C) Total delta-9 THC;

(D) Total THC of tetrahydrocannabinols other than delta-9 THC;

and

(E) Total CBD.

(ii) Calculating total THC and total CBD.

(A) Total delta-9 THC must be calculated as follows, where M is the mass or mass fraction of delta-9 THC or delta-9 THCA:  $M \text{ total delta-9 THC} = M \text{ delta-9 THC} + (0.877 \times M \text{ delta-9 THCA})$ .

(B) Total THC for tetrahydrocannabinol compounds other than delta-9 must be calculated individually for every tetrahydrocannabinol compound that is present in an amount greater than 0.2 mg/g.

(B) Total CBD must be calculated as follows, where M is the mass or mass fraction of CBD and CBDA:  $M \text{ total CBD} = M \text{ CBD} + (0.877 \times M \text{ CBDA})$ .

(iii) Regardless of analytical equipment or methodology, certified labs must accurately measure and report the acidic (THCA and CBDA) and neutral (THC and CBD) forms of the cannabinoids.

(b) **Water activity testing.** The sample fails quality control testing for water activity if the results exceed the following limits:

(i) Water activity rate of more than 0.65  $a_w$  for useable cannabis;

(ii) Water activity rate of more than 0.85  $a_w$  for solid edible products.

(c) **Foreign matter screening.** The sample fails quality control testing for foreign matter screening if the results exceed the following limits:

(i) Five percent of stems 3 mm or more in diameter; or

(ii) Two percent of seeds or other foreign matter; or

(iii) One insect fragment, one hair, or one mammalian excreta in sample.

(d) **Microbiological screening.** The sample and the related population fails quality control testing for microbiological screening if the results exceed the following limits:

Unprocessed Plant Material	Colony Forming Unit per Gram (CFU/g)
Bile Tolerant Gram Negative bacteria (BTGN)	$1.0 * 10^4$
Shiga toxin-producing	<1

<b>Unprocessed Plant Material</b>	<b>Colony Forming Unit per Gram (CFU/g)</b>
Escherichia coli (STEC)	
Salmonella spp.	<1
<b>Processed Plant Material</b>	<b>Colony Forming Unit per Gram (CFU/g)</b>
Bile Tolerant Gram Negative bacteria (BTGN)	1.0 * 10 <sup>3</sup>
Shiga toxin-producing Escherichia coli (STEC)	<1
Salmonella spp.	<1

(e) **Mycotoxin screening.** The sample and the related population fails quality control testing if the results exceed the following limits:

<b>Mycotoxin</b>	<b>µg/kg</b>	<b>CAS #</b>
Aflatoxins (Sum of Isomers)	20.	
• Aflatoxin B1		1162-65-8
• Aflatoxin B2		7220-81-7
• Aflatoxin G1		1165-39-5
• Aflatoxin G2		7241-98-7
Ochratoxin A	20.	303-47-9

(f) **Residual solvent screening.** Except as otherwise provided in this subsection, a sample and the related population fails quality control testing for residual solvents if the results exceed the limits provided in the table below. Residual solvent results of more than 5,000 ppm for class three solvents, 50 ppm for class two solvents, and 2 ppm for any class one solvents as defined in *United States Pharmacopoeia USP 30 Chemical Tests / <467> - Residual Solvents (USP <467>)* not listed in the table below fail quality control testing.

When residual solvent screening is required, certified labs must test for the solvents listed in the table below at a minimum.

Solvent	µg/g	ppm (simplified)	CAS #
Acetone	5.0 * 10 <sup>3</sup>	5000	67-64-1
Benzene	2.0	2	71-43-2
Butanes (Sum of Isomers)	5.0 * 10 <sup>3</sup>	5000	
• n-butane			106-97-8
• 2-methylpropane (isobutane)			75-28-5
Cyclohexane	3.9 * 10 <sup>3</sup>	3880	110-82-7
Chloroform	2.0	2	67-66-3
Dichloromethane	6.0 * 10 <sup>2</sup>	600	75-09-2
Ethanol	5.0 * 10 <sup>3</sup>	5000	64-17-5
Ethyl acetate	5.0 * 10 <sup>3</sup>	5000	141-78-6
Heptanes (Single Isomer)	5.0 * 10 <sup>3</sup>	5000	
• n-heptane			142-82-5
Hexanes (Sum of Isomers)	2.9 * 10 <sup>2</sup>	290	
• n-hexane			110-54-3
• 2-methylpentane			107-83-5
• 3-methylpentane			96-14-0
• 2,2-dimethylbutane			75-83-2
• 2,3-dimethylbutane			79-29-8
Isopropanol (2-propanol)	5.0 * 10 <sup>3</sup>	5000	67-63-0
Methanol	3.0 * 10 <sup>3</sup>	3000	67-56-1
Pentanes (Sum of Isomers)	5.0 * 10 <sup>3</sup>	5000	
• n-pentane			109-66-0
• methylbutane (isopentane)			78-78-4
• dimethylpropane (neopentane)			463-82-1
Propane	5.0 * 10 <sup>3</sup>	5000	74-98-6
Toluene	8.9 * 10 <sup>2</sup>	890	108-88-3
Xylenes (Sum of Isomers)	2.2 * 10 <sup>3</sup>	2170	
• 1,2-dimethylbenzene (ortho-)			95-47-6
• 1,3-dimethylbenzene (meta-)			108-38-3
• 1,4-dimethylbenzene (para-)			106-42-3

(g) **Heavy metal screening.** Heavy metal screening is required for all DOH compliant product as described in chapter 246-70 WAC. Heavy metal screening is optional for non-DOH compliant product; however,

heavy metal limits provided below apply to all products. Any product exceeding the provided limits is subject to recall and destruction. The board may conduct random or investigation driven heavy metal screening for compliance. A sample and related quantity of product fail quality control testing for heavy metals if the results exceed the limits provided in the table below.

<b>Metal</b>	<b>µg/g</b>
Arsenic	2.0
Cadmium	0.82
Lead	1.2
Mercury	0.40

(h) **Pesticide screening.** For purposes of pesticide screening, a sample and the related quantity of cannabis is considered to have passed if it meets the standards described in WAC 314-55-108 and applicable department of agriculture rules.

(4) **Required quality control tests.** The following quality control tests are required for each of the cannabis products described below. Licensees and certified labs may opt to perform additional quality control tests on the same sample.

(a) **Cannabis flower.** Cannabis flower requires the following quality control tests:

<b>Product</b>	<b>Test(s) Required</b>
Cannabis flower	1. Water activity testing 2. <u>Cannabinoid concentration</u> <del>2. Potency analysis</del> 3. Foreign matter inspection 4. Microbiological screening

Product	Test(s) Required
	5. Mycotoxin screening 6. Pesticide screening

(b) If cannabis flower will be sold as useable flower, no further testing is required.

(c) **Intermediate products.** Intermediate products must meet the following requirements related to quality control testing:

(i) All intermediate products must be homogenized prior to quality assurance testing;

(ii) For the purposes of this section, a batch is defined as a single run through the extraction or infusion process;

(iii) Cannabis mix must be chopped or ground so no particles are greater than 3 mm; and

(iv) Intermediate products require the following quality assurance tests:

Intermediate Product Type	Tests Required
Cannabis mix	1. Water activity testing 2. <u>Cannabinoid concentration</u> <del>2. Potency</del> analysis 3. Foreign matter inspection 4. Microbiological screening 5. Mycotoxin screening 6. Pesticide screening
Concentrate or extract made with hydrocarbons (solvent based made using n-butane, isobutane, propane, heptane, or other solvents or gases approved by the board of at least 99% purity)	1. <u>Cannabinoid concentration</u> <del>Potency</del> analysis 2. Mycotoxin screening 3. Residual solvent test 4. Pesticide screening
Concentrate or extract made with a CO <sub>2</sub>	1. <u>Cannabinoid concentration</u> <del>Potency</del>

<b>Intermediate Product Type</b>	<b>Tests Required</b>
extractor like hash oil	analysis 2. Mycotoxin screening 3. Residual solvent test 4. Pesticide screening
Concentrate or extract made with ethanol	1. <u>Cannabinoid concentration</u> <del>Potency</del> analysis 2. Mycotoxin screening 3. Residual solvent test 4. Pesticide screening
Concentrate or extract made with approved food grade solvent	1. <u>Cannabinoid concentration</u> <del>1. Potency</del> analysis 2. Microbiological screening 3. Mycotoxin screening 4. Residual solvent test 5. Pesticide screening
Concentrate or extract (nonsolvent) such as kief, hash, rosin, or bubble hash	1. <u>Cannabinoid concentration</u> <del>Potency</del> analysis 2. Microbiological screening 3. Mycotoxin screening 4. Pesticide screening
Infused cooking oil or fat in solid form	1. <u>Cannabinoid concentration</u> <del>Potency</del> analysis 2. Microbiological screening 3. Mycotoxin screening 4. Pesticide screening

(d) **End products.** All cannabis, cannabis-infused products, cannabis concentrates, cannabis mix packaged, and cannabis mix infused sold from a processor to a retailer require the following quality assurance tests:

<b>End Product Type</b>	<b>Tests Required</b>
Infused solid edible	1. <u>Cannabinoid concentration</u> <del>Potency</del> analysis 2. Water activity testing
Infused liquid (like a soda or tonic)	1. <u>Cannabinoid concentration</u> <del>Potency</del> analysis
Infused topical	1. <u>Cannabinoid concentration</u> <del>Potency</del> analysis
Cannabis mix packaged (loose or rolled)	1. <u>Cannabinoid concentration</u> <del>Potency</del>

End Product Type	Tests Required
	analysis
Cannabis mix infused (loose or rolled)	1. <u>Cannabinoid concentration</u> <del>Potency</del> analysis
Concentrate or cannabis-infused product for inhalation	1. <u>Cannabinoid concentration</u> <del>Potency</del> analysis

(e) End products consisting of only one intermediate product that has not been changed in any way are not subject to cannabinoid concentration~~potency~~ analysis.

(5) Useable flower, a batch of cannabis concentrate, or a batch of cannabis-infused product may not be sold until the completion and successful passage of required quality control testing, except:

(a) Licensees may wholesale and transfer batches or quantities of cannabis flower and other material that will be extracted, and cannabis mix and nonsolvent extracts, for the purposes of further extraction prior to completing required quality control testing.

(b) Business entities with multiple locations licensed under the same UBI number may transfer cannabis products between the licensed locations under the same UBI number prior to quality control testing.

(c) Licensees may wholesale and transfer failed batches or quantities of cannabis flower to be extracted pursuant to subsection (6) of this section, unless failed for tests that require immediate destruction.

(6) **Failed test samples.**



(a) Upon approval by the board, failed quantities of cannabis or batches may be used to create extracts. After processing, the extract must pass all quality control tests required in this section before it may be sold, unless failed for tests that require immediate destruction.

(b) Retesting. A producer or processor must request retesting. The board may authorize the retest to validate a failed test result on a case-by-case basis. The producer or the processor requesting the retest must pay for the cost of all retesting.

(c) Remediation. Remediation is a process or technique applied to quantities of cannabis flower, lots, or batches. Remediation may occur after the first failure, depending on the failure, or if a retest process results in a second failure. Pesticide failures may not be remediated.

(i) Producers and processors may remediate failed cannabis flower, lots, or batches so long as the remediation method does not impart any toxic or harmful substance to the useable cannabis, cannabis concentrates, or cannabis-infused product. Remediation solvents or methods used on the cannabis product must be disclosed to:

(A) A licensed processor;

(B) The producer or producer/processor who transfers the cannabis products;

(C) A licensed retailer carrying cannabis products derived from the remediated cannabis flower, lot, or batch; or

(D) The consumer upon request.

(ii) The entire quantity of cannabis from which the failed sample(s) were deducted must be remediated.

(iii) No remediated quantity of cannabis may be sold or transported until quality control testing consistent with the requirements of this section is completed.

(iv) If a failed quantity of remediated cannabis is not remediated or reprocessed in any way after a first failure, it cannot be retested. Any subsequent certificates of analysis produced without remediation or reprocessing of the failed quantity of cannabis will not supersede the original compliance testing certificate of analysis.

(7) **Referencing.** Certified laboratories~~labs~~ may reference samples for mycotoxins, heavy metals, and pesticides testing to other certified labs by subcontracting for those fields of testing. Laboratories~~Labs~~ must record all referencing to other labs on a chain-of-custody manifest that includes, but is not limited to, the following information: Lab name, certification number, transfer date,

address, contact information, delivery personnel, sample ID numbers, field of testing, and receiving personnel.

(8) Certified laboratories~~labs~~ are not limited in the amount of useable cannabis and cannabis products they may have on their premises at any given time, but a certified laboratory~~lab~~ must have records proving all cannabis and cannabis-infused products in the certified lab's possession are held only for the testing purposes described in this chapter.

(9) A certificate of analysis issued by a certified lab for any cannabis product subject to the requirements of this chapter that has not already been transferred to a retail location expires 12 calendar months after issuance.

(10) The board, or its designee, may request that a licensee or a certified lab provide an employee of the board or their designee samples of cannabis or cannabis products, or samples of the growing medium, soil amendments, fertilizers, crop production aids, pesticides, or water for random or investigatory compliance checks. Samples may be randomly screened and used for other quality control tests deemed necessary by the board.

(11) All cannabis products produced, processed, distributed, or sold after the effective date of these rules, must comply with these

rules and this chapter; however, postharvest products in the possession of or being processed by a licensee that do not comply with these rules as of their effective date may be sold, distributed, or both within a reasonable period of time, determined by the board.

[Statutory Authority: RCW 69.50.342 and 2022 c 16 § 168. WSR 22-14-111, § 314-55-102, filed 7/6/22, effective 8/6/22. Statutory Authority: RCW 69.50.345 and 69.50.348. WSR 22-06-097, § 314-55-102, filed 3/2/22, effective 4/2/22. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 17-12-032, § 314-55-102, filed 5/31/17, effective 8/31/17; WSR 16-11-110, § 314-55-102, filed 5/18/16, effective 6/18/16; WSR 15-11-107, § 314-55-102, filed 5/20/15, effective 6/20/15; WSR 14-07-116, § 314-55-102, filed 3/19/14, effective 4/19/14. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-102, filed 10/21/13, effective 11/21/13.]

**WAC 314-55-105 Cannabis product packaging and labeling.** (1) The

following definitions apply to this section, unless the context clearly indicates otherwise:

(a) "Cartoon" means any drawing or other depiction of an object, person, animal, creature, or any similar caricature that meets any of the following criteria:

(i) The use of comically exaggerated features;

(ii) The attribution of human characteristics to animals, plants, or other objects;

(iii) The attribution of animal, plant, or other object characteristics to humans;

(iv) The attribution of unnatural or extra-human abilities.

(b) "Child resistant packaging" means packaging that is used to reduce the risk of poisoning in persons under the age of 21 through the ingestion of potentially hazardous items including, but not limited to, cannabis concentrates, useable cannabis, and cannabis-infused products.

(c) "Especially appealing to persons under the age of 21" means a product or label that includes, but is not limited to:

(i) The use of cartoons;

(ii) Bubble-type or other cartoon-like font;

(iii) A design, brand, or name that resembles a noncannabis consumer product that is marketed to persons under the age of 21;

(iv) Symbols or celebrities that are commonly used to market products to persons under the age of 21;

(v) Images of persons under the age of 21; or

(vi) Similarities to products or words that refer to products that are commonly associated or marketed to persons under the age of 21.

(d) "Cannabis concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant *Cannabis* and having a THC concentration greater than 10 percent, consistent with RCW 69.50.101.~~(z)~~.

(e) "Cannabis edible" means a cannabis-infused product as defined in RCW 69.50.101.~~(ff)~~.

(f) "Cannabis topical" or "topical" means any product containing parts of the cannabis plant that is intended for application to the body's surface including, but not limited to, lotions, ointments, salves, gels, or cream that are not intended for ingestion, inhalation, or insertion by humans or animals.

(g) "Structure and function claims" mean a description of the role of a cannabis product intended to affect normal structure and

function in humans, characterized by the means by which a cannabis product acts to maintain such structure or function, or describe the general well-being from consumption of a cannabis product, consistent with the guidance provided in 21 U.S.C. Sec. 343(6).

(h) "Useable cannabis" means dried cannabis flowers consistent with RCW 69.50.101.~~(ww)~~. The term "useable cannabis" does not include either cannabis-infused products or cannabis concentrates.

(2) **Cannabis concentrates.** The following standards apply to all packaging and labeling of cannabis concentrates:

(a) ~~PackagingContainers or packaging~~ containing cannabis concentrates must protect the product from contamination.

~~PackagingContainers or packaging~~ must not impart any toxic or harmful substance to the cannabis concentrate.

(b) Cannabis concentrates must be packaged:

(i) In child resistant packaging consistent with 16 C.F.R. Part 1700, Poison Prevention Packaging Act; or

(ii) In plastic that is two mil or greater in thickness, heat sealed without an easy-open tab, dimple, corner, or flap that will protect persons under the age of 21 from accidental exposure to cannabis concentrates.

(c) Cannabis concentrates must not be labeled as organic unless permitted by the U.S. Department of Agriculture consistent with the Organic Foods Production Act.

(d) Cannabis concentrate labels must comply with the version of NIST Handbook 130, Uniform Packaging and Labeling regulation adopted in chapter 16-662 WAC.

(e) Cannabis concentrate labels must clearly and visibly provide all of the following information:

(i) The business or trade name and the 9~~-nine~~-digit Washington state unified business identifier (UBI) number of the cannabis producer and processor;

(ii) The lot number of the product, ~~(the unique identifier number generated by the board's traceability system)~~. This must be the same number that appears on the transport manifest;

(iii) The net weight in ounces and grams or volume as applicable;

(iv) Total THC, calculated for each individual tetrahydrocannabinol compound present in amounts greater than 0.2 mg/g, as defined in WAC 314-55-010, and calculated using the formula referenced in WAC 314-55-102;

(v) Total ~~(delta-9 tetrahydrocannabinol) meaning the concentration of THC and THCA, total~~ CBD (cannabidiol) meaning the



concentration of CBDA and CBD, using the formulas referenced in WAC 314-55-102.~~(vi)~~

~~(v)~~ Medically and scientifically accurate and reliable information about the health and safety risks posed by cannabis use;

~~(vii)~~ If solvents were used to create concentrate or extract, a statement that discloses the type of extraction method, including in solvents or gases used to create the concentrate; and

~~(viii)~~ A complete list of any other chemicals, compounds, additives, thickening agents, terpenes, or other substances used to produce or added to the concentrate or extract at any point during production. A copy of the complete list of chemicals, compounds, additives, thickening agents, terpenes, or other substances must be kept and maintained at the facility in which the cannabis concentrates are processed.

(f) Cannabis concentrate labels may not contain any statement, depiction, or illustration that:

(i) Is false or misleading, consistent with guidance provided in 21 C.F.R. Sec. 101.18(a);

(ii) Promotes over consumption;

(iii) Represents that the use of cannabis has curative or therapeutic effects;

(iv) Depicts a person under the age of 21 consuming cannabis; or

(v) Is especially appealing to persons under 21 years of age as defined in subsection (1)(c) of this section.

(g) The following statements must be included on all cannabis concentrate labels:

(i) "Warning - May be habit forming;"

(ii) "Unlawful outside Washington State;"

(iii) "It is illegal to operate a motor vehicle while under the influence of cannabis;"

(iv) The cannabis universal symbol as provided in WAC 314-55-106;

and

(v) "Smoking is hazardous to your health."

(h) Product labeling for cannabis concentrates identified as compliant cannabis product under RCW 69.50.375(4) and chapter 246-70 WAC may include:

(i) A structure or function claim describing the intended role of the product to maintain the structure or any function of the body; or

(ii) Characterization of the documented mechanism by which the product acts to maintain such structure or function, provided that the claim is truthful and not misleading.

(iii) Any statement made under this subsection may not claim to diagnose, mitigate, treat, cure, or prevent any disease.

(i) Where there is one statement made under (h) of this subsection, or there is a warning describing the psychoactive effects of the cannabis product that is not false or misleading, the disclaimer must state, "This statement has not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(j) Where there is more than one statement made under (h) of this subsection, or there is a warning describing the psychoactive effects of the cannabis product that is not false or misleading, the disclaimer must state, "These statements have not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(3) **Cannabis edibles in solid form.** The following standards apply to all packaging and labeling of cannabis edibles in solid form:

(a) Packaging~~Containers or packaging~~ containing cannabis edibles in solid form must protect the product from contamination.

Packaging~~Containers or packaging~~ must not impart any toxic or harmful substance to the cannabis edibles in solid form.

(b) Cannabis edibles in solid form must be packaged:

(i) In child resistant packaging consistent with 16 C.F.R. Part 1700, Poison Prevention Packaging Act; or

(ii) In plastic that is two mil or greater in thickness, heat sealed without an easy-open tab, dimple, corner, or flap that will protect persons under the age of 21 from accidental exposure to cannabis edibles in solid form.

(c) Cannabis-infused edibles in solid form, such as capsules, lozenges, and similar products approved by the board on a case-by-case basis may be packaged loosely within a resealing outer package that is child resistant in accordance with Title 16 C.F.R. 1700 of the Poison Prevention Packaging Act.

(d) Cannabis edibles in solid form must not be labeled as organic unless permitted by the U.S. Department of Agriculture consistent with the Organic Foods Production Act.

(e) Labels for cannabis edibles in solid form must comply with the version of NIST Handbook 130, Uniform Packaging and Labeling regulation adopted in chapter 16-662 WAC.

(f) Labels for cannabis edibles in solid form must clearly and visibly provide all of the following information:

(i) The business or trade name and the 9-nine-digit Washington state unified business identifier (UBI) number of the licensees that produced and processed the cannabis or cannabis products;

(ii) The lot number of the product, ~~(the unique identifier number generated by the board's traceability system)~~. This must be the same number that appears on the transport manifest;

(iii) The serving size, the amount of product per serving, and the number of servings contained within the unit. ~~If more than one serving is in a package, the label must prominently display the serving size, the number of servings in the package and the amount of product per serving;~~

~~(iv) Net weight in ounces and grams or volume as applicable;~~

(iv) Net weight in ounces and grams or volume as applicable;

(v) Total THC, calculated for each individual ~~(delta-9-~~ tetrahydrocannabinol compound present in amounts greater than 0.2 mg/g, as defined in WAC 314-55-010, and calculated using the formula referenced in WAC 314-55-102;

~~(vi) Total)~~ ~~meaning the concentration of THC and THCA, total CBD (cannabidiol) meaning the concentration of CBDA and CBD, using the formulas referenced in WAC 314-55-102.~~ The total THC for each THC compound must be reported individually;

(~~vii~~vi) Medically and scientifically accurate and reliable information about the health and safety risks posed by cannabis use;

(vii) A list of ingredients in descending order of predominance by weight or volume as applicable and a list of major food allergens as defined in the Food Allergen Labeling and Consumer Protection Act of 2004;

(viii) If solvents were used, a statement that discloses the type of extraction method, including any solvents, gases, or other chemicals or compounds used to produce or that were added to the extract.

(g) Labels for cannabis edibles in solid form may not contain any statement, depiction, or illustration that:

(i) Is false or misleading, consistent with guidance provided in 21 C.F.R. Sec. 101.18(a);

(ii) Promotes over consumption;

(iii) Represents that the use of cannabis has curative or therapeutic effects;

(iv) Depicts a person under the age of 21 consuming cannabis, or is especially appealing to persons under 21 years of age as defined in subsection (1)(c) of this section.

(h) The following warning statements must be included on all labels for all cannabis edibles in solid form. The following warning statements must be legible, unobscured, and visible to the consumer:

(i) "Warning - May be habit forming;"

(ii) "Unlawful outside Washington State;"

(iii) "It is illegal to operate a motor vehicle under the influence of cannabis;"

(iv) The cannabis universal symbol as provided in WAC 314-55-106;

and

(v) "Caution: Intoxicating effects may be delayed by 2+ hours."

(i) Product labeling for cannabis edibles in solid form identified as compliant cannabis product under RCW 69.50.375~~(4)~~ and chapter 246-70 WAC may include:

(i) A structure or function claim describing the intended role of the product to maintain the structure or any function of the body; or

(ii) Characterization of the documented mechanism by which the product acts to maintain such structure or function, provided that the claim is truthful and not misleading.

(iii) Any statement made under this subsection may not claim to diagnose, mitigate, treat, cure, or prevent any disease.

(j) Where there is one statement made under (i) of this subsection, or there is a warning describing the psychoactive effects of the cannabis product, provided it is not false or misleading, the disclaimer must state, "This statement has not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(k) Where there is more than one statement made under (h) of this subsection, or there is a warning describing the psychoactive effects of the cannabis product, provided they are not false or misleading, the disclaimer must state, "These statements have not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(4) **Cannabis edibles in liquid form.** The following standards apply to all packaging and labeling of cannabis edibles in liquid form:

(a) Packaging~~Containers or packaging~~ containing cannabis edibles in liquid form must protect the product from contamination.

Packaging~~Containers or packaging~~ must not impart any toxic or harmful substance to the cannabis edibles in liquid form.

(b) Cannabis edibles in liquid form must be packaged:



(i) In child resistant packaging consistent with 16 C.F.R. Part 1700, Poison Prevention Packaging Act; or

(ii) In plastic that is two mil or greater in thickness, heat sealed without an easy-open tab, dimple, corner, or flap that will protect persons under the age of 21 from accidental exposure to cannabis edibles in liquid form.

(iii) Cannabis edibles in liquid form that include more than one serving must be packaged with a resealable closure or cap. Cannabis edibles in liquid form must include a measuring device such as a measuring cup or dropper. Hash marks on the package~~bottle~~ or package~~cap~~ qualify as a measuring device.

(c) Cannabis edibles in liquid form must not be labeled as organic unless permitted by the U.S. Department of Agriculture consistent with the Organic Foods Production Act.

(d) Labels for cannabis edibles in liquid form must comply with the version of NIST Handbook 130, Uniform Packaging and Labeling regulation adopted in chapter 16-662 WAC.

(e) Labels for cannabis edibles in liquid form must clearly and visibly provide all of the following information:

(i) The business or trade name and the 9~~-nine~~-digit Washington state unified business identifier (UBI) number of the licensees that produced and processed the cannabis or cannabis products;

(ii) The lot number of the product, the unique identifier number generated by the board's traceability system. This must be the same number that appears on the transport manifest;

(iii) The serving size, the amount of product per serving, and the number of servings contained within the unit. ~~If more than one serving is in a package; , the label must prominently display the serving size, the number of servings in the package and the amount of product per serving;~~

(iv) Net weight in ounces and grams or volume as applicable;

~~(iv)~~ Total THC, calculated for each individual (delta-9-tetrahydrocannabinol compound present in amounts greater than 0.2 mg/g, as defined in WAC 314-55-010,) ~~meaning the concentration of THC and calculated using the formula referenced in WAC 314-55-102;~~

(V) Total THCA, total CBD (cannabidiol) meaning the concentration of CBDA and CBD, using the formulas referenced in WAC 314-55-102;

~~(vi)~~ (vi) Medically and scientifically accurate and reliable information about the health and safety risks posed by cannabis use;

(vii) A list of all ingredients in descending order of predominance by weight or volume as applicable and a list of major food allergens as defined in the Food Allergen Labeling and Protections Act of 2004;

(viii) If solvents were used, a statement that discloses the type of extraction method, including any solvents, gases, or other chemicals or compounds used to produce or added to the extract.

(f) Labels for cannabis edibles in liquid form may not contain any statement, depiction, or illustration that:

(i) Is false or misleading, consistent with guidance provided in 21 C.F.R. Sec. 101.18(a);

(ii) Promotes over consumption;

(iii) Represents the use of cannabis has curative or therapeutic effects;

(iv) Depicts a person under the age of 21 consuming cannabis, or is especially appealing to persons under 21 years of age as defined in subsection (1)(c) of this section.

(g) The following warning statements must be included on all labels for all cannabis edibles in liquid form. The following warning statements must be legible, unobscured, and visible to the consumer:

(i) "Warning - May be habit forming;"

(ii) "Unlawful outside Washington State;"

(iii) "It is illegal to operate a motor vehicle under the influence of cannabis;"

(iv) The cannabis universal symbol as provided in WAC 314-55-106;  
and

(v) "Caution: Intoxicating effects may be delayed by 2+ hours."

(h) Product labeling for cannabis edibles in liquid form identified as compliant cannabis product under RCW 69.50.375(4) and chapter 246-70 WAC may include:

(i) A structure or function claim describing the intended role of the product to maintain the structure or any function of the body; or

(ii) Characterization of the documented mechanism by which the product acts to maintain such structure or function, provided that the claim is truthful and not misleading.

(iii) Any statement made under this subsection may not claim to diagnose, mitigate, treat, cure, or prevent any disease.

(i) Where there is one statement made under (h) of this subsection, or there is a warning describing the psychoactive effects of the cannabis product, provided it is not false or misleading, the disclaimer must state, "This statement has not been evaluated by the

State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(j) Where there is more than one statement made under (h) of this subsection, or there is a warning describing the psychoactive effects of the cannabis product, provided they are not false or misleading, the disclaimer must state, "These statements have not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(5) **Useable cannabis.** The following standards apply to all packaging and labeling of useable cannabis:

(a) Packaging~~Containers or packaging~~ containing useable cannabis must protect the product from contamination. Packaging~~Containers or packaging~~ must not impart any toxic or harmful substance to the useable cannabis.

(b) Useable cannabis must not be labeled as organic unless permitted by the U.S. Department of Agriculture consistent with the Organic Foods Production Act.

(c) Useable cannabis must comply with the version of NIST Handbook 130, Uniform Packaging and Labeling regulation adopted in chapter 16-662 WAC.

(d) Labels for useable cannabis must clearly and visibly provide all of the following information:

(i) The business or trade name and the 9-~~nine~~-digit Washington state unified business identifier (UBI) number of the licensees that produced and processed the cannabis or cannabis products;

(ii) The lot number of the product, ~~(the unique identifier number generated by the board's traceability system)~~. This must be the same number that appears on the transport manifest;

(iii) Net weight in ounces and grams or volume as applicable;

(iv) Total THC, calculated for each individual ~~(delta-9-tetrahydrocannabinol compound present in amounts greater than 0.2 mg/g, as defined in WAC 314-55-010,)~~ ~~meaning the concentration of THC and calculated using the formula referenced in WAC 314-55-102;~~

(v) Total THCA, total ~~total~~ CBD (cannabidiol) meaning the concentration of CBDA and CBD, using the formulas referenced in WAC 314-55-102.;

(v) Medically and scientifically accurate and reliable information about the health and safety risks posed by cannabis use.

(e) Labels for useable cannabis may not contain any statement, depiction, or illustration that:

(i) Is false or misleading, consistent with guidance provided in 21 C.F.R. Sec. 101.18(a);

(ii) Promotes over consumption;

(iii) Represents the use of cannabis has curative or therapeutic effects;

(iv) Depicts a person under the age of 21 consuming cannabis, or is especially appealing to persons under 21 years of age as defined in subsection (1)(c) of this section.

(f) The following warning statements must be included on all labels for all useable cannabis. The following warning statements must be legible, unobscured, and visible to the consumer:

(i) "Warning - May be habit forming;"

(ii) "Unlawful outside Washington State;"

(iii) "It is illegal to operate a motor vehicle under the influence of cannabis;"

(iv) The cannabis universal symbol as provided in WAC 314-55-106;  
and

(v) "Smoking is hazardous to your health."

(g) Product labeling for useable cannabis identified as compliant cannabis product under RCW 69.50.375(4) and chapter 246-70 WAC may include:

(i) A structure or function claim describing the intended role of the product to maintain the structure or any function of the body; or

(ii) Characterization of the documented mechanism by which the product acts to maintain such structure or function, provided that the claim is truthful and not misleading.

(iii) Any statement made under this subsection may not claim to diagnose, mitigate, treat, cure, or prevent any disease.

(h) Where there is one statement made under (g) of this subsection, or there is a warning describing the psychoactive effects of the cannabis product, provided it is not false or misleading, the disclaimer must state, "This statement has not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(i) Where there is more than one statement made under (g) of this subsection, or there is a warning describing the psychoactive effects of the cannabis product, provided they are not false or misleading, the disclaimer must state, "These statements have not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(6) **Cannabis mix.** Cannabis mix is defined in WAC 314-55-010.           

(7+22) as an intermediate lot that contains multiple strains of useable cannabis and is chopped or ground so no particles are greater



than 3 mm. The following standards apply to all packaging and labeling of cannabis mix:

(a) ~~Packaging Containers or packaging~~ containing cannabis mix must protect the product from contamination. ~~Packaging Containers or packaging~~ must not impart any toxic or harmful substance to the cannabis mix.

(b) Cannabis mix must not be labeled as organic unless permitted by the U.S. Department of Agriculture consistent with the Organic Foods Production Act.

(c) Cannabis mix must comply with the version of NIST Handbook 130, Uniform Packaging and Labeling regulation adopted in chapter 16-662 WAC.

(d) Labels for cannabis mix must clearly and visibly provide all of the following information:

(i) The business or trade name and the 9-~~nine~~ digit Washington state unified business identifier (UBI) number of the licensees that produced and processed the cannabis or cannabis products;

(ii) The lot number of the product, ~~(the unique identifier number generated by the board's traceability system)~~. This must be the same number that appears on the transport manifest;

(iii) Net weight in ounces and grams or volume as applicable;

(iv) Total THC, calculated for each individual ~~(delta-9-~~ tetrahydrocannabinol compound present in amounts greater than 0.2 mg/g, as defined in WAC 314-55-010,) ~~meaning the concentration of THC~~ and calculated using the formula referenced in WAC 314-55-102;

(v) Total~~THCA,~~ total CBD (cannabidiol) meaning the concentration of CBDA and CBD, using the formulas referenced in WAC 314-55-102;

(~~vii~~) vi) Medically and scientifically accurate and reliable information about the health and safety risks posed by cannabis use;

(~~viii~~) vii) If solvents were used, a statement that discloses the type of extraction method, including any solvents, gases, or other chemicals or compounds used to produce or added to the extract;

(~~viii~~) viii) Any other chemicals or compounds used to produce or were added to the concentrate or extract.

(e) Labels for cannabis mix form may not contain any statement, depiction, or illustration that:

(i) Is false or misleading, consistent with guidance provided in 21 C.F.R. Sec. 101.18(a);

(ii) Promotes over consumption;

(iii) Represents the use of cannabis has curative or therapeutic effects;

(iv) Depicts a person under the age of 21 consuming cannabis, or is especially appealing to persons under 21 years of age as defined in subsection (1)(c) of this section.

(f) The following warning statements must be included on all labels for all cannabis mix. The following warning statements must be legible, unobscured, and visible to the consumer:

(i) "Warning - May be habit forming;"

(ii) "Unlawful outside Washington State;"

(iii) "It is illegal to operate a motor vehicle under the influence of cannabis;"

(iv) The cannabis universal symbol as provided in WAC 314-55-106; and

(v) "Smoking is hazardous to your health."

(g) Product labeling for cannabis mix identified as compliant cannabis product under RCW 69.50.375(4) and chapter 246-70 WAC may include:

(i) A structure or function claim describing the intended role of the product to maintain the structure or any function of the body; or

(ii) Characterization of the documented mechanism by which the product acts to maintain such structure or function, provided that the claim is truthful and not misleading.

(iii) Any statement made under this subsection may not claim to diagnose, mitigate, treat, cure, or prevent any disease.

(h) Where there is one statement made under (g) of this subsection, or there is a warning describing the psychoactive effects of the cannabis product, provided it is not false or misleading, the disclaimer must state, "This statement has not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(i) Where there is more than one statement made under (g) of this subsection, or there is a warning describing the psychoactive effects of the cannabis product, provided they are not false or misleading, the disclaimer must state, "These statements have not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(7) **Cannabis topicals.** The following standards apply to all packaging and labeling of cannabis topicals:

(a) Packaging~~Containers or packaging~~ containing a cannabis topical must protect the product from contamination.

Packaging~~Containers or packaging~~ must not impart any toxic or harmful substance to the cannabis topical.

(b) Cannabis topicals must not be labeled as organic unless permitted by the U.S. Department of Agriculture consistent with the Organic Foods Production Act.

(c) Cannabis topicals must comply with the version of NIST Handbook 130, Uniform Packaging and Labeling regulation adopted in chapter 16-662 WAC.

(d) Labels for cannabis topicals must clearly and visibly provide all of the following information:

(i) The business or trade name and the 9~~-nine~~-digit Washington state unified business identifier (UBI) number of the licensees that produced and processed the cannabis or cannabis products;

(ii) The lot number of the product, ~~(the unique identifier number generated by the board's traceability system)~~. This must be the same number that appears on the transport manifest;

(iii) The label must prominently display the net weight in ounces and grams or volume as applicable, and may not exceed serving and transaction limits as described in WAC 314-55-095;

(iv) Total THC, calculated for each individual ~~(delta-9-~~ tetrahydrocannabinol compound present in amounts greater than 0.2 mg/g, as defined in WAC 314-55-010,) ~~meaning the concentration of THC and calculated using the formula referenced in WAC 314-55-102;~~

(vi) TotalTHCA, ~~total~~ CBD (cannabidiol) meaning the concentration of CBDA and CBD, using the formulas referenced in WAC 314-55-102;

(~~vii~~) Medically and scientifically accurate and reliable information about the health and safety risks posed by cannabis use; and

(~~viii~~) A list of all ingredients in descending order of predominance by weight or volume as applicable.

(e) Labels for cannabis topicals may not contain any statement, depiction, or illustration that:

(i) Is false or misleading, consistent with guidance provided in 21 C.F.R. Sec. 101.18(a);

(ii) Promotes over consumption;

(iii) Represents the use of cannabis has curative or therapeutic effects;

(iv) Depicts a person under the age of 21 consuming cannabis, or is especially appealing to persons under 21 years of age as defined in subsection (1)(c) of this section.

(f) The following warning statements must be included on all labels for all cannabis topicals. The following warning statements must be legible, unobscured, and visible to the consumer:

(i) "Unlawful outside Washington State;"

(ii) The cannabis universal symbol as provided in WAC 314-55-106;

and

(iii) "DO NOT EAT" in bold, capital letters.

(g) Product labeling for cannabis topicals identified as compliant cannabis product under RCW 69.50.375(4) and chapter 246-70 WAC may include:

(i) A structure or function claim describing the intended role of the product to maintain the structure or any function of the body; or

(ii) Characterization of the documented mechanism by which the product acts to maintain such structure or function, provided that the claim is truthful and not misleading.

(iii) Any statement made under this subsection may not claim to diagnose, mitigate, treat, cure, or prevent any disease.

(h) Where there is one statement made under (g) of this subsection, or there is a warning describing the psychoactive effects of the cannabis product, provided it is not false or misleading, the disclaimer must state, "This statement has not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(i) Where there is more than one statement made under (g) of this subsection, or there is a warning describing the psychoactive effects

of the cannabis product, provided they are not false or misleading, the disclaimer must state, "These statements have not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(8) **Optional label information.** Optional label information includes the following: Harvest date, "best by date," and manufactured dates.

(9) **Accompanying materials.** Accompanying materials must be provided with a cannabis product or made available to the consumer purchasing cannabis products.

A producer or processor must provide the following product-specific information, for as long as the product is for sale, through an internet link, web address, or QR code on the product label as follows:

(a) A statement disclosing all pesticides applied to the cannabis plants and growing medium during production of the useable cannabis or the base cannabis used to create the concentrate or the extract added to infused products;

(b) A list disclosing all of the chemicals, compounds, additives, thickening agents, terpenes, or other substances added to any cannabis concentrate during or after production.



(10) **Upon request materials.** A consumer may request the name of the certified lab and quality assurance test results for any cannabis or cannabis product. A retailer must provide the information upon request.

[Statutory Authority: RCW 69.50.342 and 2022 c 16 § 168. WSR 22-14-111, § 314-55-105, filed 7/6/22, effective 8/6/22. Statutory Authority: RCW 69.50.342, 69.50.345 and 2019 c 393. WSR 20-01-172, § 314-55-105, filed 12/18/19, effective 1/1/20. Statutory Authority: RCW 69.50.342, 69.50.345 and 2018 c 43 s 1. WSR 18-11-005, § 314-55-105, filed 5/2/18, effective 1/1/19. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-105, filed 5/18/16, effective 6/18/16; WSR 15-11-107, § 314-55-105, filed 5/20/15, effective 6/20/15; WSR 14-10-044, § 314-55-105, filed 4/30/14, effective 5/31/14. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-105, filed 10/21/13, effective 11/21/13.]

**WAC 314-55-106 Cannabis warning symbol requirement.** The

following requirements are in addition to the packaging and labeling requirements provided in WAC 314-55-105.

(1) Cannabis-infused products for oral ingestion sold at retail must be labeled on the principal display panel or front of the product package with the "not for kids" warning symbol ("warning symbol") created and made available in digital form to licensees without cost by the Washington poison center (WPC). The warning symbol may be found on the WPC's website.

(a) The warning symbol must be of a size so as to be legible, readily visible by the consumer, and effective to alert consumers and children that the product is not for kids, but must not be smaller than three-quarters of an inch in height by one-half of an inch in width; and

(b) The warning symbol must not be altered or cropped in any way other than to adjust the sizing for placement on the principal display panel or front of the product package, except that a licensee must use a black border around the edges of the white background of the warning symbol image when the label or packaging is also white to ensure visibility of the warning symbol.

(c) Licensees may download the digital warning symbol from the WPC and print stickers, or purchase and use a sticker made available by the WPC, in lieu of incorporating the warning symbol on the label or packaging as required under subsection (1) of this section. If a licensee elects to use a warning symbol sticker, the sticker:

(i) Must meet all requirements of (a) and (b) of this subsection; and

(ii) Must not cover or obscure in any way labeling or information required on cannabis products by WAC 314-55-105.

(2) All cannabis products sold at retail must be labeled on the principal display panel or front of the product package with the cannabis universal symbol ("universal symbol") created and made available in digital form to licensees without cost by the LCB~~WSLCB~~. The digital file for the universal symbol is available on the LCB's~~WSLCB~~'s website.

(a) The universal symbol must be of a size so as to be legible, readily visible by the consumer, and effective to alert consumers that the product is or contains cannabis, but must not be smaller than three-quarters of an inch in height by three-quarters of an inch in width;

(b) The universal symbol must not be altered or cropped in any way other than to adjust the sizing for placement on the principal display panel or front of the product package; and

(c) Licensees may download the digital universal symbol from the WSLCB's website and print stickers in lieu of incorporating the universal symbol on the label or packaging as required under (a) and (b) of this subsection. If a licensee elects to use a universal symbol sticker, the sticker:

(i) Must meet all requirements of this section; and

(ii) Must not cover or obscure in any way labeling or information required on cannabis products by WAC 314-55-105.

(3) For the purposes of this section, "principal display panel" means the portion(s) of the surface of the immediate ~~package~~container, or of any outer ~~package~~container or wrapping, which bear(s) the labeling designed to be most prominently displayed, shown, presented, or examined under conditions of retail sale. "Immediate ~~package~~container" means the external container holding the cannabis product.

[Statutory Authority: RCW 69.50.342 and 2022 c 16 § 168. WSR 22-14-111, § 314-55-106, filed 7/6/22, effective 8/6/22. Statutory Authority: RCW 69.50.342, 69.50.345 and 2018 c 43 s 1. WSR 18-11-005,

§ 314-55-106, filed 5/2/18, effective 1/1/19. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-23-089, § 314-55-106, filed 11/16/16, effective 2/14/17.]

**WAC 314-55-109 Cannabinoid additives — Requirements,**

**restrictions, and quality assurance testing.** (1) As provided in RCW 69.50.326 ~~licensed~~ licensed cannabis producers and licensed cannabis processors may use a cannabidiol (CBD) product obtained from a source not licensed under this chapter, provided the CBD product:

(a) Is not cannabis ~~Has a THC level of 0.3 percent~~ or a cannabis product, as defined in chapter 69.50 RCW ~~less~~; and

(b) Has been tested for contaminants and toxins by a testing laboratory accredited under this chapter and in accordance with testing standards established in this section.

(2) Licensed cannabis producers and licensed cannabis processors may use a CBD product obtained from a source not licensed under this chapter and chapter 69.50 RCW as an additive for the purpose of enhancing the CBD concentration of any product authorized for production, processing, and sale under this chapter. However, useable cannabis, except cannabis that is an intermediate product that will be converted into a cannabis-infused product or a cannabis concentrate, may not be treated or otherwise adulterated in any way including the addition of a CBD product consistent with the rules of this chapter. Except as allowed under this section, CBD product additives must be lawfully produced by, or purchased from, a producer or processor

licensed under this chapter. The testing requirements for CBD products derived from cannabis produced by cannabis licensees are provided in WAC 314-55-102. The testing requirements in this section are required in addition to quality assurance testing otherwise required under this chapter for cannabis products.

(3) **Traceability requirements.** A licensee must enter CBD products obtained from a source not licensed under this chapter into the state traceability system and keep the information in the traceability system completely up to date, consistent with cannabis and cannabis product recordkeeping and traceability requirements in WAC 314-55-083. A licensee must keep CBD products obtained from a source not licensed under this chapter labeled and quarantined in an area separate from cannabis and cannabis products under video surveillance consistent with the requirements for controlled areas in WAC 314-55-083(3) until the CBD products successfully pass quality assurance testing or are destroyed due to failure of tests as provided in this section. At no time during the quarantine period can the product be handled or moved under any circumstances, except for purposes of deducting samples as required under this section, and is subject to auditing by the LCB or its designee(s). CBD products obtained from a source not licensed under this chapter that fail quality assurance testing as

provided in this section must not be added to any cannabis product and must be disposed of consistent with WAC 314-55-097 and the disposal logged into the traceability system consistent with WAC 314-55-083.

(4) **Testing requirements.** The following sample deduction and testing requirements apply to CBD products obtained from a source not licensed under this chapter. Such products must successfully pass quality assurance testing prior to being added to any cannabis product. Samples that fail quality assurance testing and the corresponding products that the samples were deducted from must be disposed of consistent with WAC 314-55-097.

(a) **Sample size and deduction requirements.** Licensed producers, licensed processors, certified labs, and their employees must adhere to the minimum sampling protocols as provided in this section. Samples must be deducted in a way that is most representative of the product the sample is deducted from. The minimum sample size for the testing requirements under this section for CBD products is one percent of the product as packaged by the manufacturer of the CBD product but in no case shall the sample be less than two grams. Licensees, certified labs, and their employees may not adulterate or change in any way the representative sample before the sample is tested.



(i) All samples must be collected/deducted in a sanitary environment using sanitary practices and ensure facilities are constructed, kept, and maintained in a clean and sanitary condition in accordance with rules and as prescribed by the Washington state department of agriculture under chapters 16-165 and 16-167 WAC.

(ii) Persons collecting samples must wash their hands prior to collecting a sample, wear appropriate gloves, and must use sanitary utensils and storage devices when collecting samples.

(iii) Samples must be placed in a sanitary plastic or glass container and stored in a location that prevents the propagation of pathogens and other contaminants, such as a secure, low-light, cool and dry location.

(iv) The licensee must maintain the CBD products from which the sample was deducted in a secure, low-light, cool, and dry location to prevent the products from becoming contaminated or degraded prior to the CBD products being added or incorporated into cannabis products after successful passage of testing requirements.

(v) Each quality assurance sample must be clearly marked "quality assurance sample" and be labeled with the following information:

(A) The unique identifier for the product generated by the state traceability system;

(B) The name of the certified lab receiving the sample;

(C) The license number and business or trade name of the licensee sending the sample;

(D) The date the sample was collected; and

(E) The weight of the sample.

(vi) Certified labs may retrieve samples from a cannabis licensee's licensed premises and transport the sample(s) directly to the lab. Certified labs may also return any unused portion of the sample(s).

(b) **Required fields of testing.**

(i) **Cannabinoid concentration analysis.** Cannabinoid concentration analysis ~~Potency testing.~~ Potency testing is required to confirm the product is not cannabis or a cannabis product, as defined in chapter 69.50 RCW, less than 0.3 percent THC, contains detectable levels of CBD, and to ~~measure~~ determine the concentration ~~levels~~ of delta-9 THC, delta-9 THC-A, CBD, and CBD-A in the product, as provided in WAC 314-55-102. Synthetic cannabinoids as defined in RCW 69.50.204 are prohibited under RCW 69.50.401 and any test result that suggests the presence of a synthetic cannabinoid must be immediately reported to the board in the required format ~~WSLCB~~.

~~(A) Certified labs must test and report the following cannabinoids to the WSLCB in the state traceability system when testing for potency:~~

~~(I) THCA;~~

~~(II) THC;~~

~~(III) Total THC;~~

~~(IV) CBDA;~~

~~(V) CBD; and~~

~~(VI) Total CBD.~~

~~(B) Calculating total THC and total CBD.~~

~~(I) Total THC must be calculated as follows, where M is the mass or mass fraction of delta-9 THC or delta-9 THCA:  $M \text{ total delta-9 THC} = M \text{ delta-9 THC} + (0.877 \times M \text{ delta-9 THCA})$ .~~

~~(II) Total CBD must be calculated as follows, where M is the mass or mass fraction of CBD and CBDA:  $M \text{ total CBD} = M \text{ CBD} + (0.877 \times M \text{ CBDA})$ .~~

~~(C) Regardless of analytical equipment or methodology used for testing, certified labs must accurately measure and report the acidic (THCA and CBDA) and neutral (THC and CBD) forms of the cannabinoids.~~

~~(D) The following cannabinoid concentration analysis potency results fail quality control and assurance testing for the purposes of~~

this section and the sample and corresponding product from which the sample was deducted must be disposed of consistent with this section and WAC 314-55-097:

(I) The CBD product is cannabis or a cannabis product, as defined in chapter 69.50 RCW~~tests above 0.3 percent THC;~~

(II) The CBD product does not contain any detectable amounts of CBD or CBD-A; and

(III) The sample test results indicate that a substance is present that is not THC, CBD, or inert substance which the THC or CBD is dissolved into.

(ii) **Pesticide screening.**

(A) Licensees~~Certified third-party labs~~ must use a certified laboratory to screen for any pesticides that are not allowed and are designated as having the potential for misuse on a list created, maintained, and periodically updated by the department of health in consultation with the Washington state department of agriculture and the LCBWSLCB.

(B) If the LCBWSLCB, WSDA, other designee of the LCBWSLCB, or certified lab identifies a pesticide that is not allowed for use or application on cannabis under this chapter and is above the action levels provided in WAC 314-55-108, that sample and corresponding

product from which the sample was deducted has failed quality assurance testing. A sample that tests at or above the action levels for pesticides consistent with WAC 314-55-108 fails pesticide testing requirements for the purposes of this section. A sample and corresponding product from which the sample was deducted that fails quality assurance testing under this section must be destroyed consistent with WAC 314-55-097.

(C) Cannabis licensees~~Certified third party labs~~ must also use certified laboratories to screen for pyrethrins and piperonyl butoxide (PBO) in samples of CBD products obtained from a source not licensed under this chapter. Certified laboratories~~third party labs~~ may also screen for additional pesticides not specifically required under this section and per the DOH list, however, any sample that tests at or above the action level for any pesticide(s) as established in WAC 314-55-108 fails the testing requirements under this section and must be disposed of consistent with WAC 314-55-097.

(iii) **Heavy metal screening.** For the purposes of heavy metal screening, a sample fails quality assurance testing and must be disposed of consistent with WAC 314-55-097 if it meets or exceeds the following limits:

<u>Metal</u>	<u>Limit, µg/daily dose (5 grams)</u>
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Inorganic arsenic . . . . .	10.0
Cadmium . . . . .	4.1
Lead . . . . .	6.0
Mercury . . . . .	2.0

(iv) **Residual solvents screening.** Cannabis licensees must use a certified laboratory to~~Certified labs must~~ test for the solvents listed in the table below at a minimum. Except as otherwise provided in this subsection, a sample and corresponding product from which the sample was deducted fail quality assurance testing for residual solvents and must be disposed of consistent with WAC 314-55-097 if the results meet or exceed the limits provided in the table below. Residual solvent results of more than 5,000 ppm for class three solvents, 50 ppm for class two solvents, and 2 ppm for class one solvents as defined in *United States Pharmacopoeia, USP 30 Chemical Tests / <467>*; - *Residual Solvents (USP <467>*;) not listed in the table below fail quality assurance testing.

Solvent	ppm
Acetone	5,000
Benzene	2
Butanes	5,000
Cyclohexane	3,880
Chloroform	2
Dichloromethane	600
Ethyl acetate	5,000
Heptanes	5,000
Hexanes	290
Isopropanol (2-propanol)	5,000

<b>Solvent</b>	<b>ppm</b>
Methanol	3,000
Pentanes	5,000
Propane	5,000
Toluene	890
Xylene*	2,170

\* Usually 60% *m*-xylene, 14% *p*-xylene, 9% *o*-xylene with 17% ethyl benzene.

(v) **Microbiological screening.** The sample and corresponding product from which the sample was deducted fail quality assurance testing for microbiological screening and must be disposed of consistent with WAC 314-55-097 if the results exceed the following limits:

	<b>Enterobacteria (bile-tolerant gram-negative bacteria)</b>	<b><i>E. coli</i> (pathogenic strains) and <i>Salmonella spp.</i></b>
<b>Unprocessed Plant Material</b>	10 <sup>4</sup>	Not detected in 1g
<b>Extracted or Processed Botanical Product</b>	10 <sup>3</sup>	Not detected in 1g

(vi) **Mycotoxin screening.** The sample and corresponding product from which the sample was deducted fail quality assurance testing for mycotoxin screening and must be disposed of consistent with WAC 314-55-097 if the results exceed the following limits:

- (A) Total of Aflatoxin B1, B2, G1, G2: 20 µg/kg of substance; and
- (B) Ochratoxin A: 20 µg/kg of substance.

(5) **Test results reporting requirements.** Cannabis licensees must use a certified laboratory to~~Certified labs must~~ report all test

results as required by this section into the state traceability system within 24 hours of completion of the tests.

(6) **Retesting.** At the request of the producer or processor, the ~~LCBWSLCB~~ 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. Retesting cannabinoid concentrations~~Potency retesting~~ will not generally ~~not~~ be authorized.

(7) **Remediation.** Producers and processors may remediate failed products so long as the remediation method does not impart any toxic or deleterious substance to the CBD products obtained from a source outside the regulated system. Remediation solvents or methods used on the product must be disclosed to a licensed processor the producer or producer/processor transfers the products to; a licensed retailer carrying cannabis products derived from the remediated product; or consumer upon request. The product(s) the failed sample(s) were deducted from must be remediated using the same remediation technique. No remediated CBD products obtained from a source outside the regulated system may be sold, transported, or used in the processing of cannabis products until the completion and successful passage of quality assurance testing as required in this section.



(8) A licensee or certified lab that violates any of the provisions of this section is subject to disciplinary action, including possible summary suspension or revocation of the producer license, processor license, producer/processor license, or lab certification.

[Statutory Authority: RCW 69.50.342 and 2022 c 16 § 168. WSR 22-14-111, § 314-55-109, filed 7/6/22, effective 8/6/22. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 18-22-056, § 314-55-109, filed 10/31/18, effective 12/1/18.]



# Washington State Liquor and Cannabis Board

## Collaborative Rulemaking Discussion Implementation of E2SSB 5367 (THC Bill) Rulemaking

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**Washington State Liquor and Cannabis Board**  
1025 Union Avenue  
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Friday, December 15, 2023  
Tuesday, December 19, 2023  
Thursday, December 21, 2023

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# Washington State Liquor and Cannabis Board

## Welcome

**Reason Rulemaking is Necessary:** To amend the current rules (chapter 314-55 WAC) to implement the provisions of E2SSB 5367 (“THC bill”).

**Meeting Goal:** Review and discuss regulatory policy options to align the current rules with the statutory changes, keeping mind factors such as benefits, costs, direct and/or indirect impacts, laboratory and/or testing considerations, and possible unintended consequences.



# Washington State Liquor and Cannabis Board

## Rulemaking Timeline

All dates are tentative.

### PHASE I: CR-101

**June 21, 2023** – Board approved of CR-101 to initiate the rulemaking.

[CR-101 Memo](#)

[CR-101 filed as WSR-23-13-129](#)

### PHASE II: CR-102

**January 2024** – Publicly disseminate survey to gather feedback on regulatory options discussed during recent engagement sessions.

**January 31, 2024** – Survey deadline

**February 2024** – Publicly disseminate draft conceptual rules for public comment and hold stakeholder engagement sessions to review and discuss draft proposed rule language.

**March 2024** – Request Board approval of CR-102

**April 2024** – Public Hearing

### PHASE III: CR-103

**May 2024** – Request Board approval of CR-103.

Rules become effective no sooner than 31 days after filing date.



# Washington State Liquor and Cannabis Board

## THC Bill Background

- **Bill Title:** Engrossed Second Substitute Senate Bill (E2SSB 5367) (Chapter 365, Laws of 2023), *“An Act relating to the regulation of products containing THC.”*
  - Agency (LCB) sponsored legislation to regulate intoxicating products containing THC and distinguish between a *“cannabis product”* and *“hemp consumable,”* subsequently expanded LCB’s authority to regulate products with any detectable amount of THC.
  - Effective date of legislation – July 23, 2023
  - [Final bill text pdf](#)
- **Amended sections (chapter 69.50.RCW):**
  - [RCW 69.50.101](#) *Definitions.*
  - [RCW 69.50.326](#) *Cannabis producers, processors—Use of additives to enhance CBD concentration of authorized products—Rules.*
  - [RCW 69.50.346](#) *Labels on retail products.*
- **New sections (chapter 69.50.RCW): :**
  - [RCW 69.50.3251](#) *Cannabis manufacture, sale, distribution prohibited without a license—Tribal agreements—Synthetic cannabinoids prohibited.*
  - [RCW 69.50.326](#) (**NOTES**) *Cannabis producers, processors—Use of additives to enhance CBD concentration of authorized products—Rules.*



# Washington State Liquor and Cannabis Board

## Overview of THC Bill Provisions

- **Amended [RCW 69.50.101](#) Definitions.**
  - Amended definitions:
    - "Cannabis"
    - "Cannabis products"
    - "THC concentration"
  - New definitions:
    - "Package"
    - "Unit"
- **Amended [RCW 69.50.326](#) Cannabis producers, processors – Use of additives to enhance CBD concentration of authorized products.**
  - **New – [RCW 69.50.326 \(Notes\)](#)** - States an Agency is not required to purchase liquid chromatography-mass spectrometry instruments.
- **Amended [RCW 69.50.346](#) Labels on retail products.**
- **Created new section [RCW 69.50.3251](#).** Cannabis manufacture, sale, distribution prohibited without a license – Tribal agreements – Synthetic cannabinoids prohibited.



## Amended definition of “*THC concentration*”

E2SSB 5367 amended the definition of “*THC concentration*” to include forms of THC, in addition to *delta-9 THC*.

- Under the current rules, *delta-9 THC* is the only form of THC required for potency analysis (WAC 314-55-102(3)(a)).
- The formula for ***total THC*** calculates only the ***total delta-9 THC***.
  - [WAC 314-55-102 Quality Assurance and Quality Control](#). (3)(a)(i)(A) “***Total THC*** must be calculated as follows, where *M* is the mass or mass fraction of *delta-9 THC* or *delta-9 THCA*:  $M \text{ total } \mathbf{\textit{delta-9 THC}} = M \mathbf{\textit{delta-9 THC}} + (0.877 \times M \mathbf{\textit{delta-9 THCA}})$ .”
- [RCW 69.50.346\(1\)\(c\)](#) requires labels on cannabis product packages sold at retail to include the THC concentration of the product.
  - [WAC 314-55-105](#) requires product labels sold at retail to include the total THC using the formulas referenced in WAC 314-55-102.



# Washington State Liquor and Cannabis Board

## Amending current rules to align with new statutory definition of “THC concentration” Regulatory Options to Consider

### ✓ **Option #1:** Do not amend current rules.

- Require potency analysis to include only delta-9 THC, and continue calculating total THC based on only delta-9 THC, and
- Require “THC concentration” to be reported on retail product labels as ‘total [**delta-9**] THC’.

### ✓ **Option #2:** Amend rules to include other forms of THC, in addition to delta-9 THC, in “THC concentration.”

- Require potency analysis to include other forms of THC, in addition to delta-9 THC (e.g., delta-8 THC, THC-P, THCV, etc.).
- Require retail product labels to include other forms of THC detected during potency analysis, and either:
  - a) Amend formula to calculate ‘total THC’ to include all forms of THC detected during potency analysis
    - i. Example formula: Amend formula to calculate ‘total THC’ to include all forms of THC detected during potency analysis: Total THC (mg/g) = [(delta 8-THCA concentration (mg/g) + delta 9-THCA concentration (mg/g) + THCVA (mg/g)) x 0.877] + [delta 8-THC concentration (mg/g) + delta 9-THC concentration (mg/g) + THCV].
  - b) Calculate ‘total THC’ for each form of THC detected during potency analysis; or
    - i. Example formula: Total delta-9 THC = (% delta-9 THCA x 0.877) + % delta-9 THC and Total delta-8 THC = (% delta-8 THCA x 0.877) + % delta-8 THC
  - c) Remove all references to ‘total THC’ throughout the rules and replace with “THC concentration.”
    - i. Require THC concentration to be reported on retail product labels for useable cannabis and cannabis concentrates to be expressed as a percentage, for each form of THC detected during potency analysis; and
    - ii. Require THC concentration to be reported on retail product labels for cannabis-infused products (solid, liquid, and topical) to be expressed in milligrams, for each form of THC detected during potency analysis.





## Amended definition of “*cannabis products*”

E2SSB 5367 amended the definition of “*cannabis products*” to include products containing “***any detectable amount of THC,***” whereas “*cannabis products*” was previously defined as products with a THC concentration greater than ***0.3% delta-9 THC.***



# Washington State Liquor and Cannabis Board

Amending current rules to align with new statutory definition of “*cannabis products*”

– Establishing a limit of detection for THC

Regulatory Options to Consider

- ✓ **Option #1:** The limit of detection (LOD) is 0.3 mg/g.
  - 0.03% or 300 ppm
  - LOD corresponds with current limit of quantification (LOQ) in rule, 1.0 mg/g.
  - Recommendation from Cannabinoid Science Workgroup
  
- ✓ **Option #2:** The LOD is 0.02 mg/g.
  - 0.002% or 20 ppm
  
- ✓ **Option #3:** The LOD is 0.001 mg/g.
  - 0.0001% or 1 ppm
  
- ✓ **Option #4:** Do not include an LOD in rule and require compliance with a third-party standard (i.e., AOAC)



# Washington State Liquor and Cannabis Board

## New and amended section – Prohibiting synthetic cannabinoids

E2SSB created a new section, [RCW 69.50.3251](#), prohibiting the producing, processing, manufacturing, and sale of ***any synthetically derived cannabinoid or completely synthetic cannabinoid***; and amended [RCW 69.50.326](#) to prohibit the use of a synthetic cannabinoid to be used as an additive to enhance the CBD concentration of a product.



# Washington State Liquor and Cannabis Board

## Amending current rules to align with statutory changes related to prohibiting synthetic cannabinoids Regulatory Options to Consider

### ✓ **Option #1:** Do not amend current rules.

- Default to dictionary definition - **“Synthetic”** means of, relating to, or produced by chemical or biochemical synthesis *especially*: produced artificially - *synthetic* drugs and *synthetic* silk. – Merriam Webster dictionary

### ✓ **Option #2:** Create a new definition for *“synthetic,” “synthetically-derived,”* and/or *“semi-synthetic.”*

- *Example language:*

- *“Synthetic cannabinoid” means any cannabinoid that does not occur in the cannabis plant and is produced through chemical manipulation in a laboratory or similar facility.*
- *“Artificially derived cannabinoid” means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the cannabis plant. “Artificially derived cannabinoid” does not include: (i) a naturally occurring chemical substance that is separated from the cannabis plant by a chemical or mechanical extraction process; or (ii) a cannabinoid that is produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst.*
- *“Manufactured cannabinoid” means cannabinoids naturally occurring from a source other than marijuana that are similar in chemical structure or physiological effect to cannabinoids derived from cannabis, as defined in RCW 69.50.101, but are derived by a chemical or biological process.*
- *“Synthetic cannabinoid” means any material, compound, mixture or preparation which contains any quantity of a substance having a psychotropic response primarily by agonist activity at cannabinoid-specific receptors affecting the central nervous system that is produced artificially and not derived from an organic source naturally containing cannabinoids.*
- *“Synthetic cannabinoid” does not include the thermo-chemical conversion of cannabinoids in their acidic form into their neutral form.*

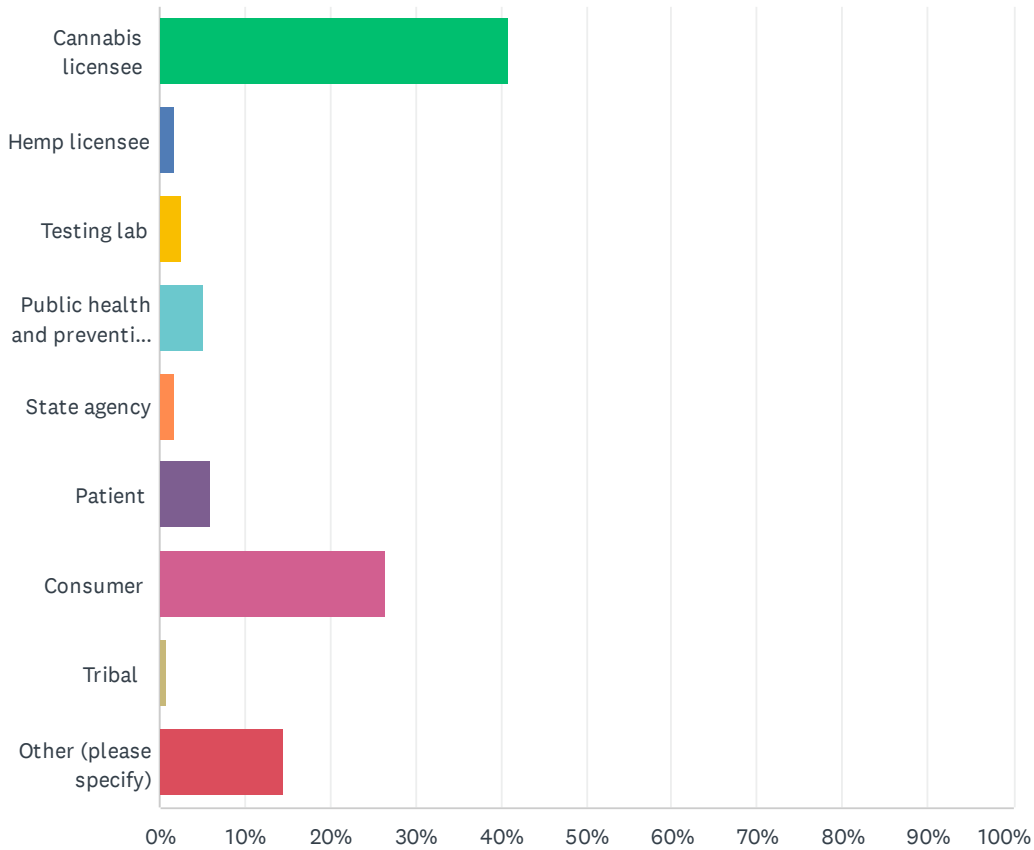


# Washington State Liquor and Cannabis Board

Thank you!

## Q1 What is your affiliation?

Answered: 234 Skipped: 0



ANSWER CHOICES	RESPONSES	
Cannabis licensee	41.03%	96
Hemp licensee	1.71%	4
Testing lab	2.56%	6
Public health and prevention community	5.13%	12
State agency	1.71%	4
Patient	5.98%	14
Consumer	26.50%	62
Tribal	0.85%	2
Other (please specify)	14.53%	34
<b>TOTAL</b>		<b>234</b>

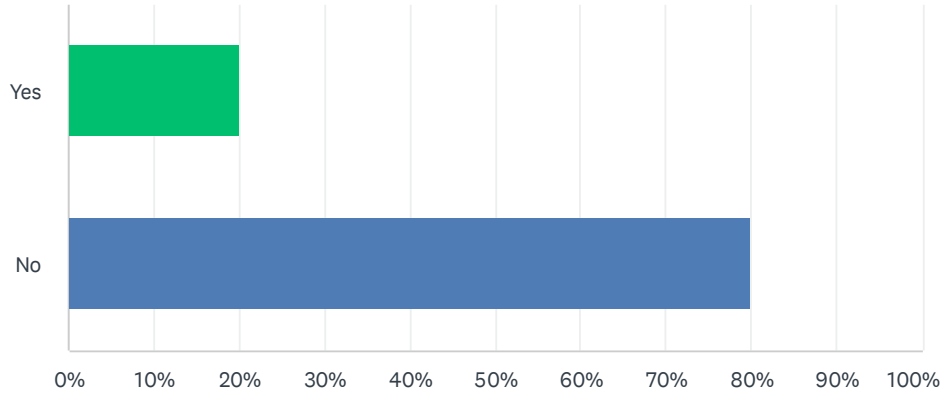
#	OTHER (PLEASE SPECIFY)	DATE
1	Biomedical researcher	2/1/2024 11:09 AM

## THC Bill Stakeholder Survey

2	concerned citizen	1/29/2024 6:57 AM
3	12 years as a doctors office who deals with Cannabis Patients	1/28/2024 12:58 PM
4	washington state father and grandfather	1/26/2024 6:59 AM
5	Former licensee, I grew hemp and had it approved by WSDA, but then LCB seized it saying it was marijuana while refusing to look at paperwork, so there is no point in growing hemp in a lawless state such as WA.	1/24/2024 11:30 PM
6	Cannabis Worker	1/24/2024 5:48 PM
7	Prior CBD Store Owner	1/24/2024 2:59 PM
8	non-profit club	1/24/2024 10:45 AM
9	Purchasing agent for cannabis license	1/23/2024 11:22 AM
10	Patient, consumer, cannabis employee	1/23/2024 11:17 AM
11	Previous license as producer/processor	1/23/2024 11:07 AM
12	Patient and employee for cannabis licensee	1/23/2024 11:07 AM
13	Retail location manager, medical delegate	1/23/2024 10:26 AM
14	Medical Marijuana Consultant	1/23/2024 10:20 AM
15	Oregon Hemp Licensee	1/23/2024 9:39 AM
16	Cannabis Industry Employee	1/23/2024 9:19 AM
17	Cannabis site owner	1/23/2024 8:54 AM
18	Industry Employee	1/23/2024 8:17 AM
19	Wasington voter	1/23/2024 12:11 AM
20	Convenient store	1/22/2024 11:23 PM
21	Grower	1/22/2024 10:20 PM
22	Researcher	1/22/2024 8:36 PM
23	Patient/Cannabis Health Consultant	1/22/2024 8:16 PM
24	Labor rep	1/22/2024 7:29 PM
25	Cannabis Health and Beauty Aid Entrepreneur	1/22/2024 7:12 PM
26	Citizen	1/22/2024 6:43 PM
27	ancillary company	1/22/2024 6:25 PM
28	GM Retail 502 Dispensary	1/22/2024 5:25 PM
29	sales	1/22/2024 5:18 PM
30	Cannabis producer / processor employee	1/22/2024 5:17 PM
31	Employee of licensee	1/22/2024 5:10 PM
32	Potential hemp license	1/22/2024 4:53 PM
33	Citizen	1/22/2024 4:28 PM
34	Retailer	1/22/2024 4:27 PM

## Q2 Did you attend any of the three collaborative rulemaking discussions held in December 2023?

Answered: 234 Skipped: 0

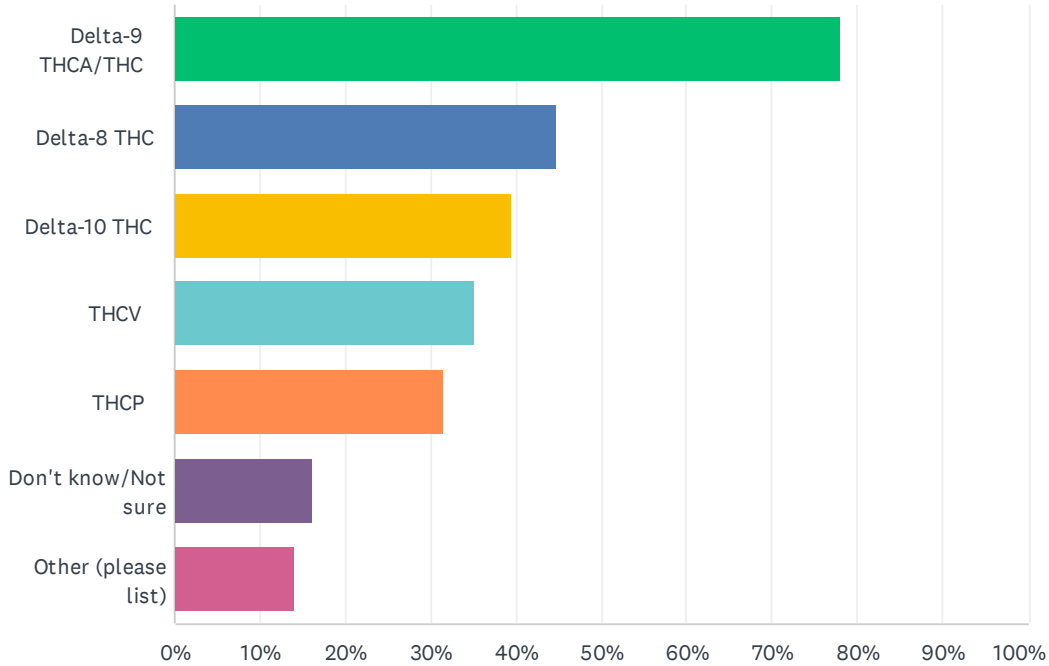


ANSWER CHOICES	RESPONSES	
Yes	20.09%	47
No	79.91%	187
<b>TOTAL</b>		<b>234</b>



### Q3 Which of the following forms of THC should be required for potency analysis? Select all that apply. (See slides 6-7)

Answered: 228 Skipped: 6



ANSWER CHOICES	RESPONSES
Delta-9 THCA/THC	78.07% 178
Delta-8 THC	44.74% 102
Delta-10 THC	39.47% 90
THCV	35.09% 80
THCP	31.58% 72
Don't know/Not sure	16.23% 37
Other (please list)	14.04% 32
Total Respondents: 228	

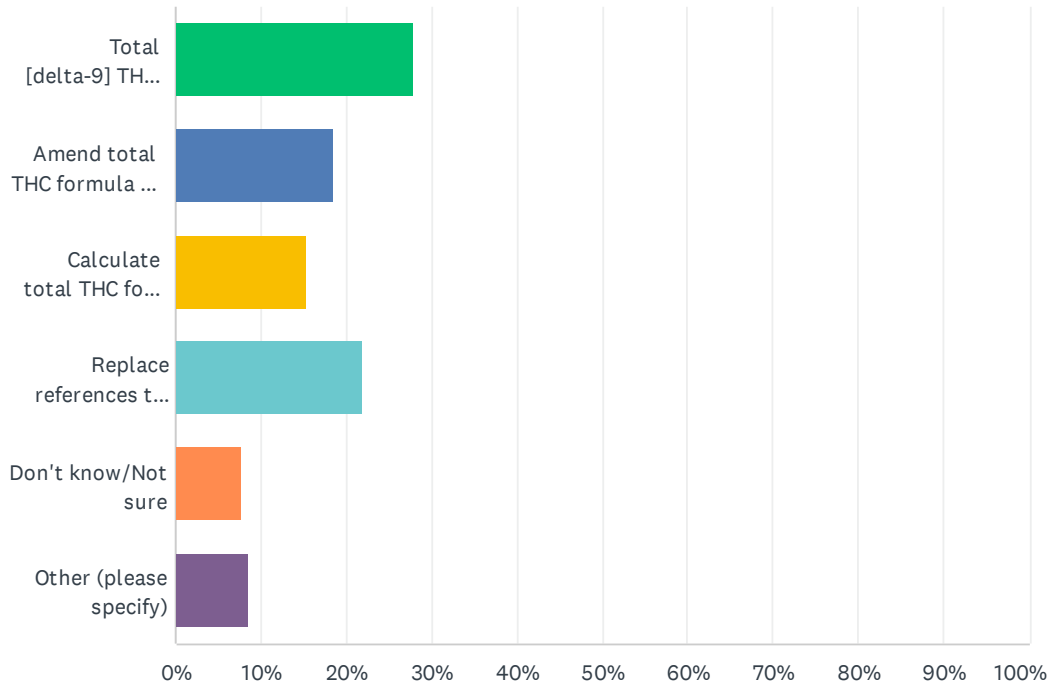
#	OTHER (PLEASE LIST)	DATE
1	Any separate compounds that are created when heat, light, or pressure (or all three) are applied to delta-9 THC or other impairing cannabinoids found in the plant, cannabis sativa.	2/4/2024 10:57 PM
2	Delta 8 shouldn't be allowed	2/1/2024 9:59 PM
3	All main cannabinoid	2/1/2024 10:38 AM
4	CBD, THCa, CBDa, CBN, CBG	1/30/2024 10:07 AM
5	CBD, THCA, CBDA	1/30/2024 10:01 AM

## THC Bill Stakeholder Survey

6	all intoxicating, and maybe all psychoactive	1/29/2024 2:35 PM
7	do not make the producer pay for expensive testing. stores and state should shoulder the burden	1/29/2024 2:15 PM
8	THCA, THCV, THCP, and total THC levels for medical patients	1/28/2024 12:58 PM
9	All	1/26/2024 6:59 AM
10	All cannabinoids should always be shown on potency analysis, regardless whether they are THC or not...rookies. Please hire an experienced person and stop hiring these westside snowflakes.	1/24/2024 11:30 PM
11	Looking for slides 6-7?	1/24/2024 6:16 PM
12	CBC,CBD,CBN,CBG	1/24/2024 5:48 PM
13	CBD/CBDA	1/23/2024 1:49 PM
14	none	1/23/2024 1:17 PM
15	Any/all other cannabinoids advertised on the package.	1/23/2024 11:27 AM
16	The more testing the better	1/23/2024 11:07 AM
17	NONE	1/23/2024 9:49 AM
18	All the THC products should be banned	1/22/2024 11:23 PM
19	All	1/22/2024 9:08 PM
20	I don't think potency in flowers should, prerolls and inhaled concentrates	1/22/2024 8:35 PM
21	All cannabinoids MUST be tested to understand the qualities of specific products	1/22/2024 8:16 PM
22	freshness is key component..... and cellular degradation is multiplied by heat and light...therefore that duration between test time and consumption...is really the only comprehensive metricn	1/22/2024 7:25 PM
23	THC being the known psychoactive compound should always be subject to analysis, regulation, and so forth.	1/22/2024 7:12 PM
24	None	1/22/2024 6:43 PM
25	None of the above	1/22/2024 6:26 PM
26	Delta-8 THCA, THCVA, and THCPA	1/22/2024 6:25 PM
27	All	1/22/2024 5:42 PM
28	If the idea behind this bill was to somehow tackle the synthentic cannabinoid problem than every form of THC needs to be tested for and labeled individually. Deltaa quantity over 1% is a tell tale sign of a synthetically derived Delta-9 THC product. THCV is naturally occurring and is not a byproduct of synthesizing Delta9.	1/22/2024 5:25 PM
29	6a10a, exo-thc, iso-thc(to identify conversions)	1/22/2024 5:10 PM
30	Synthetic cannabinoids	1/22/2024 4:49 PM
31	Just delta 9 like the fed	1/22/2024 4:39 PM
32	CBD	1/22/2024 12:22 PM

## Q4 How should "THC concentration" be reported on labels? (See slides 6-7)

Answered: 233 Skipped: 1



ANSWER CHOICES	RESPONSES
Total [delta-9] THC, as required in current rule	27.90% 65
Amend total THC formula to include other forms of THC detected, in addition to delta-9 THC, in the total THC calculation	18.45% 43
Calculate total THC for each form of THC detected during potency analysis	15.45% 36
Replace references to total THC with THC concentration and report on labels as a percentage or in milligrams, as appropriate	21.89% 51
Don't know/Not sure	7.73% 18
Other (please specify)	8.58% 20
<b>TOTAL</b>	<b>233</b>

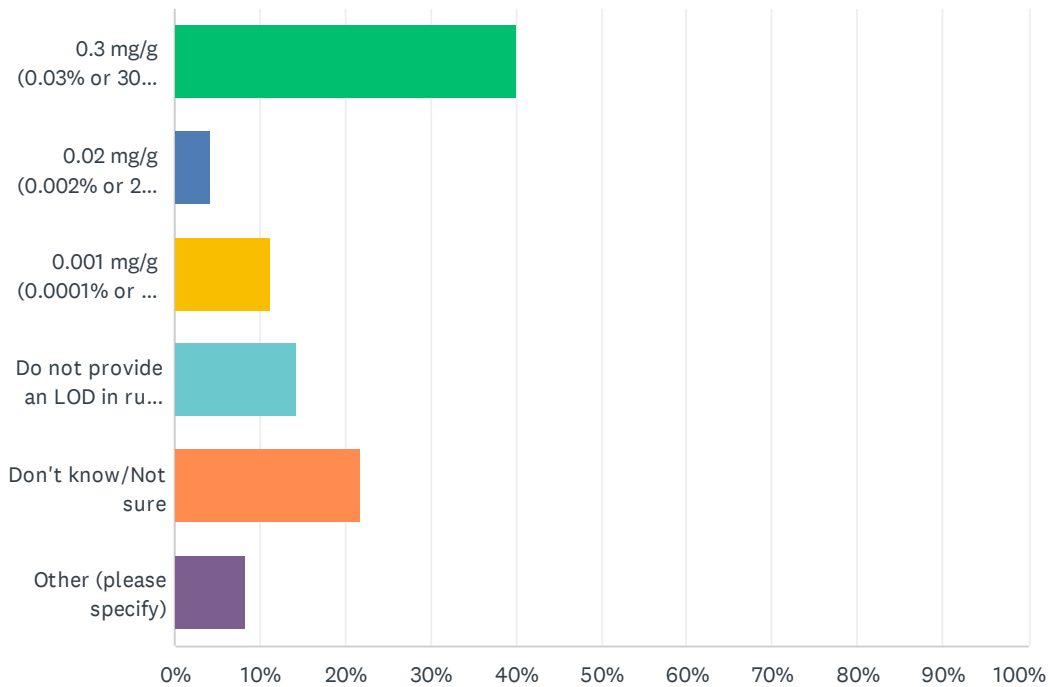
#	OTHER (PLEASE SPECIFY)	DATE
1	Help if everyone knew what all of them are	2/1/2024 9:59 PM
2	each form should be stated independently. curent testing for Total calculation is flawed	1/29/2024 2:15 PM
3	needed for medical Use	1/28/2024 12:58 PM
4	The problems with use by potency	1/26/2024 6:59 AM
5	Range of concentration for each analyte. Total THC is all THC's including D8, D9, THCA, D10, THCV, THCP, etc.	1/25/2024 11:23 AM

## THC Bill Stakeholder Survey

6	THC should be reported as a range for each analyte. Products are not homogenous, especially flower and concentrates. Total THC should include all types of THC	1/25/2024 11:22 AM
7	needs to be a range as we test 4g out of multiple lbs the chances of the customer receiving the actual texting is astronomical as this plant tests differently all over the plant.	1/24/2024 5:48 PM
8	Calculate total for each thc and display separately do not add together	1/24/2024 6:44 AM
9	Each cannabinoid or acid should be separately shown, in milligrams and not percentages	1/23/2024 2:51 PM
10	Keep it the same	1/23/2024 1:15 PM
11	Require listing each cannabinoid individually. If can't fit on label, require QR code to COA.	1/23/2024 11:27 AM
12	For flower it should be a average % example 20-25% based on a few samples because the tops of a plant can test higher then the bottoms of the plant that got no sun for extracts Total [delta-9] THC, as required in current rule	1/23/2024 7:01 AM
13	Show thc to be dangerous and illegal	1/22/2024 11:23 PM
14	Potemcynshould be reported as a range for the strain as produced by the licensee	1/22/2024 8:35 PM
15	Please standardize reporting of all cannabinoids to percentage by weight	1/22/2024 8:16 PM
16	THC Concentration should not be printed on the front of the label.	1/22/2024 7:36 PM
17	freshness and stroage.....prior to consumption	1/22/2024 7:25 PM
18	Replace THC with a range of the last 10 tests. i.e. 16.3%-23.4% THC	1/22/2024 5:25 PM
19	If the idea behind this bill was to somehow tackle the synthentic cannabinoid problem than every form of THC needs to be tested for and labeled individually. Delta 8 in any kind of quantity over 1% is a tell tale sign of a synthetically derived Delta-9 THC product.	1/22/2024 5:25 PM
20	Mg	1/22/2024 4:46 PM

## Q5 What should the limit of detection for THC be in rule? (See slides 8-9)

Answered: 230 Skipped: 4



ANSWER CHOICES	RESPONSES	
0.3 mg/g (0.03% or 300 ppm)	40.00%	92
0.02 mg/g (0.002% or 20 ppm)	4.35%	10
0.001 mg/g (0.0001% or 1 ppm)	11.30%	26
Do not provide an LOD in rule and require compliance with a third-party standard (i.e., AOAC)	14.35%	33
Don't know/Not sure	21.74%	50
Other (please specify)	8.26%	19
<b>TOTAL</b>		<b>230</b>

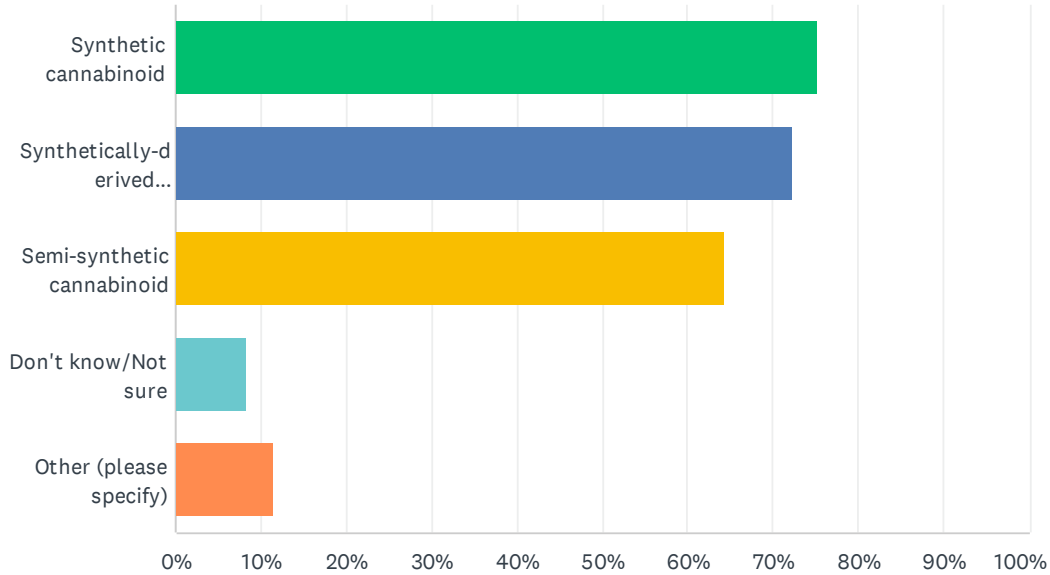
#	OTHER (PLEASE SPECIFY)	DATE
1	don't know the science of detection enough to say	1/29/2024 2:35 PM
2	1%	1/29/2024 2:15 PM
3	Live and let live.	1/27/2024 7:34 AM
4	The .03% limit is fine for typical items, but those that are more massive need to have a lower limit to prevent impairing items from being available to youth	1/26/2024 2:21 PM
5	the finer the better, best to consider production costs as well here, you know us tax payers still have to pay for this stuff, I understand the "board" could care less because you guys apportioned yourself millions of dollars regardless if growers make 1 penny. Disgusting	1/24/2024 11:30 PM
6	Cannabis effects everyone different how is it possible to know how much is a standard for the	1/24/2024 5:48 PM

## THC Bill Stakeholder Survey

	population. All people intake THC,THCV,THCP,CBC,CBN,CBD,CBG all differently	
7	No lod	1/23/2024 12:05 PM
8	NONE. This rule is frivolous and inane	1/23/2024 9:49 AM
9	THC banned period. Maybe you like dummies	1/22/2024 11:23 PM
10	Hard to say since it would vary by usage	1/22/2024 10:20 PM
11	Apply to all strains	1/22/2024 9:08 PM
12	If it's detectable on drug test, it needs to require compliance in testing.	1/22/2024 8:36 PM
13	0.3% - LOD should align with federal LOD for definition of Hemp products.	1/22/2024 7:26 PM
14	this misleading and stupid from every point...except taxes...you are not trying to help people.....quantities in a lab.....do nothing for a consumer3 4 5 12 months after testing....these structures chage there chemical comp with time	1/22/2024 7:25 PM
15	5mg	1/22/2024 6:43 PM
16	.3 subject to testing variance allowance of 20% per existing Dept of Ag regulations	1/22/2024 5:24 PM
17	Milligrams	1/22/2024 4:46 PM
18	0.1 %	1/22/2024 4:34 PM
19	1mg/g	1/22/2024 4:34 PM

## Q6 Should any of the following terms be defined in rule? Select all that apply. (See slides 10-11)

Answered: 227 Skipped: 7



ANSWER CHOICES	RESPONSES
Synthetic cannabinoid	75.33% 171
Synthetically-derived cannabinoid	72.25% 164
Semi-synthetic cannabinoid	64.32% 146
Don't know/Not sure	8.37% 19
Other (please specify)	11.45% 26
Total Respondents: 227	

#	OTHER (PLEASE SPECIFY)	DATE
1	All synthetics should not be allowed	2/1/2024 9:59 PM
2	there's way too much variability in cannabinoid-related molecules for this to be informative. Most cannabinoids produced by marijuana are not dangerous even if produced synthetically, but some of the designer molecules can be, but this terminology doesn't really speak to that.	2/1/2024 11:09 AM
3	intoxicating, maybe psychoactive impact - list of THCs reported should grow with knowledge of new THC effects	1/29/2024 2:35 PM
4	Cannot tell the difference between synthetic and natural cannabinoids for testing.	1/25/2024 11:23 AM
5	Cannot tell the difference on an HPLC between synthetically derived D8 vs naturally occurring. How will you tell if it synthetic?	1/25/2024 11:22 AM
6	don't allow any synthetic cannabinoid	1/25/2024 10:44 AM
7	no synthetic cannabinoids should be allowed.	1/24/2024 5:48 PM
8	Any synthetic cannabinoid and approved documented inspected processing.	1/24/2024 9:16 AM

## THC Bill Stakeholder Survey

9	No	1/23/2024 2:16 PM
10	no	1/23/2024 1:15 PM
11	NONE. This is frivolous over regulation	1/23/2024 9:49 AM
12	Invert the definition. Define what types of cannabinoid are proven/accepted as non-synthetic or otherwise not synthetically-derived, prohibit all cannabinoids that don't fall within that exception.	1/23/2024 8:58 AM
13	No - These terms will confuse consumers	1/23/2024 8:48 AM
14	No	1/23/2024 8:22 AM
15	No synthetics	1/23/2024 5:05 AM
16	None	1/22/2024 11:23 PM
17	Should be prohibited	1/22/2024 8:35 PM
18	We MUST begin reporting ALL cannabinoids, especially the synthetics for which long term effect is unknown. Personally, I would suggest disallowing ALL synthetic cannabinoids. Trust the plant, not the synthesizing profit driven hemp processors.	1/22/2024 8:16 PM
19	All of them as applicable	1/22/2024 7:41 PM
20	No	1/22/2024 7:36 PM
21	plantmatter should be only form legal	1/22/2024 7:25 PM
22	Synthetic cannabinoids shouldn't be allowed for sale outside a prescription.	1/22/2024 7:12 PM
23	Naturally present, as in fully derived from a/an living plant(s). Any molecular changes beyond decarboxylation should be noted as unnaturally derived or synthetic. Simply concentrating cannabinoids does not count as synthesis as no different molecules are created.	1/22/2024 5:17 PM
24	Are we allowing conversation of CBD to THC? How would you tell?	1/22/2024 4:34 PM
25	No. None of them should be. The top three are equivalent.	1/22/2024 4:30 PM
26	No	1/22/2024 4:27 PM



## Q7 Please provide any additional information related to the survey questions to be considered.

Answered: 77 Skipped: 157

#	RESPONSES	DATE
1	The state should stop allowing synthetic cannabinoids for sale in recreational program or any store in the state. These products are a liability and untested. Synthetics are a con to the real thing that is regulated.	2/1/2024 9:59 PM
2	We should have complete clarity of what people are consuming/if what they are consuming is synthetically or semi synthetically derived or not	2/1/2024 11:25 AM
3	Current testing is very misleading. Having raw data of the cannabinoid profile would be ideal.	2/1/2024 10:38 AM
4	Cannabis is the cause of the Fentanyl crisis.	1/29/2024 6:57 AM
5	There is an epidemic among our young people age 14 to 25. the 21-25 year old are buying DABS and other concentrates and selling them to the young teens. These concentrates are like giving people Cannabis Heroine.	1/28/2024 12:58 PM
6	These products lead to Fentanyl Please wake up to dangers.	1/26/2024 6:59 AM
7	Safety testing should be required for all cannabinoids, synthetic or natural, that will be sold in stores.	1/25/2024 11:23 AM
8	Public safety testing should be required on products sold with added cannabinoids in WA.	1/25/2024 11:22 AM
9	Just keep it simple and straight forward. People don't even report correctly on the labels as it now and enforcement doesn't check this.	1/25/2024 10:44 AM
10	Limit of detection is determined by method and instrument. Do you mean Limit of Quantification?	1/25/2024 9:44 AM
11	too much to type here, you guys should really be paying experts like myself for this information instead of collecting it from everyone.	1/24/2024 11:30 PM
12	I'll come better prepared next time.	1/24/2024 6:16 PM
13	Please provide more of these. There are a lot of issues that could be remedied with more information and actually listening to the guys who are "boots on the ground" so to speak. Thank you for your time.	1/24/2024 5:48 PM
14	Is HHC considered THC? Or thcoacetate?	1/24/2024 10:58 AM
15	Exclude hemp from THC reporting	1/24/2024 10:18 AM
16	The label simple for customer and budtender. It should line item each chemical and not show solely a combined total so they have more information to make informed decisions about their products.	1/24/2024 6:44 AM
17	I strongly support the prohibition of any and all synthetically derived cannabinoids. Cannabis products should be plant based.	1/24/2024 5:29 AM
18	You can find percentages and types already listed.	1/23/2024 11:39 PM
19	Close any loopholes to prevent any use of synthetic cannabinoids in the manufacture and sale of products.	1/23/2024 4:03 PM
20	Synthetic cannabinoids should not be allowed in the rec market	1/23/2024 2:51 PM
21	Consumers should know if something contains THC of any variety	1/23/2024 1:20 PM
22	We should be breaking down cannabis into as many sub cannabinoids as possible and working to educate consumers on the particular effects of each variation. This will help consumers get	1/23/2024 1:16 PM

## THC Bill Stakeholder Survey

	the ability to understand further the utility of different products.r	
23	Please revise the rules for medical authorization. Renewing every year is a hardship or, finally pass a simple home cultivation law like the other states.	1/23/2024 12:59 PM
24	Hemp should be regulated the same as potato's and apples.	1/23/2024 11:38 AM
25	The LOD depends on matrix type, so should not be the same value for all products, but since math seems so difficult for people, if it needs to be one value, 0.002% / 20ppm is safe for all matrices.	1/23/2024 11:27 AM
26	I would prefer that all forms of catalyzed or converted THC be banned for now. License holders should only sell/grow real Cannabis or extractions.	1/23/2024 11:22 AM
27	Everything should be on the label. The state should run the testing facilities since the state is requiring the test. As much information as possible should be on the label. All major and minor cannabinoids should be available on the label.	1/23/2024 11:17 AM
28	Try lowering the taxes so people that use it instead of opioid can afford it	1/23/2024 11:16 AM
29	Lower the cannabis tax by 20% at the least	1/23/2024 10:36 AM
30	It would be nice to have CBD, CBG, CBN totals as well. As a medically endorsed location, these have become ever more popular and consumers should have access to standard labels and test results.	1/23/2024 10:26 AM
31	THIS IS A PERFECT EXACPLE OF WSLCB BYPASSING LOGIC TO USE WHATEVER TAX REVANUE TO OVERREGULATE WITHOUT. ANY CHANGES TO REGULATIONS SHOULD ONLY COME FROM PUBLIC AND STAKEHOLDER REFFERANDUM. ALL 502 LICENCEES SHOULD BE GIVEN MEMBERSHIPS TO CANNRA THE CANNABIS REGULATORS ASSOCIATION	1/23/2024 9:49 AM
32	Testing is important to do always	1/23/2024 9:40 AM
33	Please be clear about rules/compliance/enforcement. As a 'good' actor in the hemp products space, I am often faced with conflicting views on the rules depending on the state, county or city agencies I come in contact with.	1/23/2024 9:39 AM
34	Not in Favor of allowing anything synthetic	1/23/2024 8:17 AM
35	None	1/23/2024 7:13 AM
36	Please provide a safe environment for consumers by containing industry interests to thus which serve consumers	1/23/2024 7:13 AM
37	delta 8 thc and cannibiniods outside delta 9 should continue to be banned.	1/23/2024 6:12 AM
38	Canabis should be regulated the same as alcohol	1/23/2024 5:46 AM
39	Greater clarity on an allowable tolerance for end product potency should be added. States like California have a 10% variance, incorporating something like that, or being more explicit in the law's verbiage that there is no allowable variance, would be beneficial.	1/23/2024 5:45 AM
40	If more complete information regarding THC levels were printed on the product lable	1/23/2024 4:00 AM
41	As a patient in Washington state, there's already a lot of unnecessary regulation that shows how uneducated everyone on the lcb actually is when it comes in regards to cannabis. If you try to cap concentrate %s it will push more and more consumers to the black market.	1/23/2024 12:14 AM
42	Pot should be banned and illegal. State just wants the tax money and to keep population stupid	1/22/2024 11:23 PM
43	All detectable THC, THCV, Delta 9 etc needs to be in 502 system.	1/22/2024 10:41 PM
44	It would make sense to me for the State to develop standards that are just like the food ingredients requirements for ca nimbus. Let the consumer decide for themselves what percent of THC they chose to ingest.	1/22/2024 9:08 PM
45	Transparency is essential with lack of trust citizens acquired from fake Covid pandemic rules. Anything less than 100% best labeling practices will result in more unnecessary harms, more trust lost by consumers, and more people turning to pharmaceuticals because of safety requirements in labeling.	1/22/2024 8:36 PM

## THC Bill Stakeholder Survey

46	This whole discussion is so damn silly. We again have people who are the least prepared to lead this discussing doing so and worse yet, crafting legislation from those discussions. Trust the plant, the whole plant and products extracted from the plant. Honestly, the cannabis community continues to advise you that the sky is not falling, nor will it as long as you stick with the plant. But no, allowing folk to dabble in synthe.tics is creating mayhem. Trust the plant	1/22/2024 8:16 PM
47	Regulate the illicit market and this survey would be relevant	1/22/2024 7:47 PM
48	Testing process should be available online for each product.you should be able to go online and watch the actual testing process of the strain you purchased.	1/22/2024 7:47 PM
49	If synthetic cannabinoids are ever allowed they will create mass over saturation of product, turn the market upside down by driving prices down causing the closure of many current businesses.	1/22/2024 7:45 PM
50	Additional reference materials in order to respond to the questions	1/22/2024 7:41 PM
51	The approach on this is all wrong. Stop the illegal Chinese grows putting the legal license holders out of business. Crack down on those guys before you crack down on us harder.	1/22/2024 7:36 PM
52	clamping-down on total THC concentration in "Hemp" products (beyond federal limits) is a counter-productive effort for anyone hoping to promote health and wellness.	1/22/2024 7:26 PM
53	lack of cancer medication is a crime...that comes with a 40 cent on the dollar tax.....that is criminal	1/22/2024 7:25 PM
54	Cannabinoid products should be separated from THC guidelines and defined more appropriately. The future of our health system will benefit greatly once we allow for the many other cannabinoids to start entering the market without hinderance. The only Cannabinoids that should be behind the LCB wall should be THC in my opinion.	1/22/2024 7:12 PM
55	The And Fun	1/22/2024 7:10 PM
56	Although not related to above question the WA LCB should consider revisiting it required microbial contamination testing rules.	1/22/2024 6:25 PM
57	Taxing or limiting the amount of THC per product or customer is NOT supported by consumers (myself and others I know)	1/22/2024 5:57 PM
58	Allowing a THC range would be more accurate and discourage High THC number shopping.	1/22/2024 5:25 PM
59	The back and forth from not allowed, to allowed (2016) to not allowed (2023) is very hard on businesses in the industry especially when we are already dealing with THCa flower being sold online, which is just cannabis by a different name, along with a law/rule that defines hemp differently than the standards set by the farm bill. This law puts Washington cannabis and hemp companies and disadvantage to similar companies in every state across the country. We need less restrictive rules, not overly restrictive rules that set up for failure both regulatorily and financially.	1/22/2024 5:25 PM
60	I don't recall being notified of working group sessions. Each hemp licensee should be receiving notice of agency actions that affect our livelihoods. Notifying hemp lobbyists is not sufficient. Please keep in mind that hemp farmers in this state are by and large small family farmers - we don't have the money to retain lobbyists (unlike 502 licensees). Very disappointed in lack of agency outreach.	1/22/2024 5:24 PM
61	As a cannabis concentrate producer I believe that any cannabinoids that weren't created by a cannabis plant initially, and have not undergone any chemical transformations beyond simple decarboxylation or degradation due to time spent under normal atmospheric conditions are beyond the spirit and intent of the I-502 enabled cannabis industry. We are cannabis producers and processors, and the cannabis plant(s) is where all cannabinoids should be derived from.	1/22/2024 5:17 PM
62	All cannabinoids known to be either part of the natural degradation pathways, or through conversion/synthesis methods should be quantified	1/22/2024 5:10 PM
63	Allowing for delta-8 to be included in the potency calculation implies that its presence is okay. Consumers may try to seek products containing listed potency contributors, even though those contributors should not be present due to their synthetic nature.	1/22/2024 5:06 PM

## THC Bill Stakeholder Survey

64	N/A	1/22/2024 4:53 PM
65	I don't feel any synthetic cannabinoid should be legal.	1/22/2024 4:49 PM
66	.	1/22/2024 4:48 PM
67	dont allow delta 8	1/22/2024 4:46 PM
68	Any products containing any measurable amount of hemp or cannabis derived intoxicating cannabinoid (delta 9, delta 8, delta 10, etc) should only be sold within the I502 regulated marketplace.	1/22/2024 4:45 PM
69	I am completely apposed to any synthetic or manipulated products being sold in or outside of I502 licensed establishments and greater effort should be made to ensure that these products are not sold in corner stores, smoke shops and big chain drug stores.	1/22/2024 4:41 PM
70	I dont' understand how any of those thc levels meet the definition of the law.	1/22/2024 4:34 PM
71	Legal weed should include all forms of THC whether they are synthetic or not in order to maintain the regulation/quality control of products.	1/22/2024 4:32 PM
72	Should not apply to products not intended for human consumption provided THC content is .3% or less	1/22/2024 4:30 PM
73	Synthetic cannabinoids should not be legalized	1/22/2024 4:28 PM
74	Stop banning smokeable CBD products with greedy LCB 502 giveaway legislation!	1/22/2024 4:27 PM
75	I think we should be able to see as much information as possible. It would be helpful to know if any of the cannabinoids are synthetic or synthetically derived.	1/22/2024 4:26 PM
76	Labs should test for all THC's to ensure D8 and other synthetically made THC are detected. If detected, test must FAIL!	1/22/2024 12:22 PM
77	We need mandatory testing for silica, as many extractors are using Color Remediation Columns and the health risks of this process are not fully understood yet	1/22/2024 12:14 PM



# Washington State Liquor and Cannabis Board

Implementing E2SSB 5367 (THC Bill). Public feedback through Jun 21, 2024. CR 101 presented on June 21, 2023; filed as WSR 23-13-129.

## THC Bill Rulemaking - Public Comment Matrix

Informal comment period (pre-CR 102 filing)

<p>Barlean's Joel Matteson</p> <p>August 1, 2023</p> <p>letter</p>	<p>August 1, 2023 Rules Coordinator Liquor and Cannabis Board PO Box 43080 Olympia, WA 98504-3080</p> <p>Dear Rules Coordinator:</p> <p>As a Washington State business and employer, Barlean's appreciates the opportunity to comment on the Washington State Liquor and Cannabis Board's (Board) Preproposal Statement of Inquiry to consider the implementation of Engrossed Second Substitute Senate Bill (E2SSB) 5367 (SB 5367) concerning products containing tetrahydrocannabinol (THC). Our comments aim to shed light on concerns with the Board's interpretation and provide suggestions as the Board develops rules to implement SB 5367.</p> <p>For 34 years, our company's mission has been to make premium, natural supplements and functional foods that feed the mind and body while using our profits to support outreach programs for people in need around the world. Because Barlean's takes the quality and purity of its products seriously, we dedicate internal staff and processes to maintaining current good manufacturing practices (cGMP) that ensure product safety and purity.</p> <p>We begin our comments with the Board's rulemaking purpose "to ensure the safety and purity of cannabidiol products used by cannabis producers and processors licensed under this chapter and incorporated into products sold by licensed recreational cannabis retailers." (SB 5367, Section 3(3)). Barlean's commends the Board's work to promote product safety but cautions against unnecessary burdens on consumers, responsible business owners, and interstate commerce.</p> <p>The Board's recent interpretation and guidance on SB 5367 has been fraught with confusion.<sup>1</sup> This is understandable considering that SB 5367 defines "hemp" the same as the 2018 Farm Bill - as including "cannabinoids ... with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent...." SB 5367 also maintains the federal definition of "marijuana" by defining "cannabis" as products having more than 0.3% THC (Section 2(d)). Then suddenly, half a page down, the bill defines "cannabis products" as having <i>any</i> detectable amount of THC (Section 2(h)). Please clarify your interpretation of SB 5367 regarding these ostensibly contradictory provisions.</p> <p>Besides illuminating whether and when a product containing "hemp" (no more than 0.3% THC) is converted to "cannabis" (more than 0.3% THC) by creating a "cannabis product" (that has any THC). please clarify that SB 5367 does not restrict in-state manufacture of low-THC hemp products for out-of-state sale. This is because Section 3 provides that, "This rulemaking authority <i>does not include the authority</i> to enact rules regarding either the production or processing practices of the industrial <i>hemp industry or any cannabidiol products that are sold or marketed outside the regulatory framework</i> established under this chapter." (SB 5367(3)(c)) (Emphasis added). Unless the Board considers distribution to other states' citizens as within the "regulatory framework established under this chapter," the Board should not enforce against such manufacturing as this goes beyond 3(c)'s mandate. Furthermore, prohibiting the manufacture or sale of low-THC hemp products outside the state unduly burdens and discriminates against out-of-state commerce contrary to the Dormant Commerce Clause. See for instance the long line of cases beginning with <i>Guy v. Baltimore</i>, 100 U.S. 434, 443 (1880) (state laws run afoul of the Interstate Commerce Clause when they "build up ... domestic commerce" through "burdens upon the industry and business of other States").</p> <p>One potential solution not precluded by SB 5367 is to re-open licensing of non-intoxicating, low-THC hemp products outside cannabis dealer locations. This will benefit consumers, many of whom will not buy these products at cannabis retailers. Businesses too will benefit enormously by continuing to engage in the responsible, state-taxed, production and sale of non-intoxicating, low-THC hemp products subject to proof</p>
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	<p>of cGMP compliance and safety and quality controls. Unfortunately, the Board's ongoing moratorium against issuing new cannabis licenses precludes such reasonable measures.</p> <p>Failing this, we ask the Board to permit retailers to sell through their existing inventory of lowTHC hemp products within a designated period after the implementation of SB 5367. We base this sell-through provision on the principle that conduct lawfully engaged in at the time should not be penalized <i>ex post facto</i>. Retailers who lawfully purchased low-THC hemp products before July 23, 2023, should be allowed to retain the benefit of that lawful bargain by selling through their inventory. The typical shelf life for tinctures is 18 months and 24 months for capsules.</p> <p>While we fully support product safety, Washington State businesses and consumers need fair, narrowly tailored, carefully drawn rulemaking that advances SB 5367's purity and safety mandate without unduly burdening consumers, businesses, or interstate commerce. Thank you for incorporating feedback like this into your rulemaking.</p> <p>Sincerely,  Joel Matteson, Chief Compliance Officer &amp; General Counsel  Barlean's, 3660 Slater Road Ferndale, WA 98248 3660, barleans.com</p> <p>Attachment: <a href="https://lcb.wa.gov/sites/default/files/publications/Cannabis/Education/CIB-87-Products-Containing-THC-Guide_Final.pdf">https://lcb.wa.gov/sites/default/files/publications/Cannabis/Education/CIB-87-Products-Containing-THC-Guide_Final.pdf</a></p>
<p>Washington Association for Substance Use and Violence Prevention (WASVP)</p> <p>Scott Waller</p> <p>August 7, 2023</p> <p>Letter attachment</p>	<p>August 7, 2023  Cassidy West, Policy, and Rules Coordinator  Washington State Liquor and Cannabis Board  PO Box 43080  Olympia, WA 98504</p> <p>SUBJECT: Responses to CR 101 – Preproposal Statement of Inquiry issued June 21, 2023</p> <p>Washington Association for Substance Use and Violence Prevention (WASAVP) is a statewide organization representing the interests of community-based prevention and public health efforts. We represent more than 200 community-based prevention coalitions statewide and have membership from all counties in Washington State.</p> <p>We recommend the following language be included in the rules implementing Engrossed Second Substitute Senate Bill (E2SSB) 5367 (Chapter 365, Laws of 2023) concerning the regulation of products containing tetrahydrocannabinol (THC). These recommendations are submitted in response to the CR 101 Preproposal Statement of Inquiry issued by the Washington State Liquor and Cannabis Board (LCB) on June 21, 2023.</p> <p>LCB identified six reasons for a possible modification of the current rule. We are providing recommended language relating to two of those reasons:</p> <ol style="list-style-type: none"> <li>1. Amending the definition of “cannabis,” “cannabis products,” and “THC concentration” in the Uniform Controlled Substances Act (UCSA); and,</li> <li>2. Prohibiting the production, processing, manufacturing, or sale of any synthetically derived, or completely synthetic cannabinoid, with limited exceptions.</li> </ol> <p>Please let us know if you have any questions regarding these recommendations by contacting Scott Waller, at tumh2o99@comcast.net, or, (360) 701-8658.</p> <p>The Liquor and Cannabis Board identified six reasons for possible changes to existing rules in its CR 101 Memorandum Regarding Implementation of Engrossed Second Substitute Senate Bill (E2SSB 5367) (chapter 365, Laws of 2023) concerning the regulation of products containing tetrahydrocannabinol (THC).</p>



Following work with many other prevention entities – and following consultation with subject area experts – the Washington Association for Substance use and Violence Prevention (WASAVP) is recommending language for changing existing rules associated with two of those reasons for change.

**Reason for Change**

▪ **Amending the definition of “cannabis,” “cannabis products,” and “THC concentration” in the Uniform Controlled Substances Act (UCSA).**

**A -** Prevention’s Proposed Model Language for the Revised Rule  
314-55-010 - Definitions:

**“Any detectable amount of THC” means total THC is less than 10 ppm**

**B -** Prevention’s Goal for this Recommended Language:

***Ensure that the THC threshold for cannabis products is based on technical limitations of THC detection and is low enough to prevent any risk of impairing effects from these products.***

**C -** Concerning the implementation of Session Laws of 2023, Chapter 365, Section 2 (1)(h)(1) "Cannabis products" means useable cannabis, cannabis concentrates, and cannabis-infused products as defined in this section, including any product intended to be consumed or absorbed inside the body by any means including inhalation, ingestion, or insertion, with any detectable amount of THC.  
(2) "Cannabis products" also means any product containing only THC content.

**D -** Relevant WACs:  
314-55-010- Definitions  
314-55-102- Quality assurance and quality control

**E -** Evidence/data/history supporting this rule or need for this rule:  
Gas Chromatography- Mass Spectrometry (GC-MS) is the only testing technology that is technically capable of testing at the levels proposed above. GC-MS techniques are sensitive and allow for detection of low concentration analytes.  
LCB’s Cannabis in Science Work Group (CSWG) has indicated that current methods such as HPLC + UV detection are not adequate to differentiate certain synthetically derived cannabinoids <sup>1</sup>. These synthetically derived cannabinoids are now prohibited, so testing for their presence in products is needed. The CSWG recommends GC-MS (Gas Chromatography–Mass Spectrometry) be used for this purpose.  
Policies in Canada and other countries show the feasibility of setting THC product thresholds as low as 10 ppm (0.001%) <sup>2</sup>. This may be considered an upper bound for what ‘detectable’ may mean, but thresholds higher than this are not supported by what is technically and logistically feasible.

**F - Notes:**  
This rule may require additional changes to 314-55-102- Quality assurance and quality control . This is because the “lower limit of quantitation” established is higher than the threshold in the proposed rule.

These changes would be as follows (note mg/kg units):

<b>Cannabinoid</b>	<b>Lower Limit of Quantitation (mg/kg)</b>	<b>CAS #</b>
CBD	1.0x10	13956-29-1
CBDA	1.0x10	1244-58-2
Δ9-THC	1.0x10	1972-08-3
Δ9-THCA	1.0x10	23978-85-0

**Reason for Change**

- **Prohibiting the production, processing, manufacturing, or sale of any synthetically**

**derived, or completely synthetic cannabinoid, with limited exceptions.**

**A - Prevention's Proposed Model Language for the Revised Rule:**

i. WAC 314-55-010 – Definitions

Require list of prohibited cannabinoids (synthetic and synthetically derived):

***The board shall maintain a publicly available list of synthetically derived cannabinoids that is updated at least annually. This is not intended to be a comprehensive list.***

Definition of synthetically derived:

***Synthetically Derived Cannabinoid means a cannabinoid like compound that was made by a chemical reaction that changes the molecular structure of any chemical substance derived from hemp or cannabis. It does not include decarboxylation.***

ii. 314-55-102(4) - Quality assurance and quality control - Required Quality Control Tests

***(c) End Products***

***(Include synthetically derived cannabinoid screening as a required test in the end product testing table)***

iii. WAC 314-55-509 – Penalty Structure - Establish penalties for violation of these rules (cannabis processors and retailers, other licensees):

***Violation of these rules is at minimum considered an immediate threat to public health and penalties per WAC 314-55-509 shall be enforced.***

iv. WAC 314-55-560 - Evaluation of additives, solvents, ingredients, or compounds (by rule) - Require testing for synthetically derived cannabinoids:

***Synthetically derived cannabinoid screening. A sample and the related population fail quality control testing if the results exceed the following limits:***

<b><i>Synthetically derived Cannabinoid</i></b>	<b><i>Action Level (mg/kg)</i></b>	<b><i>CAS#</i></b>
<b><i>Δ<sup>8</sup>- THC</i></b>	<b><i>1.0x10<sup>3</sup></i></b>	<b><i>5957-75-5</i></b>

***\* Note: this table is intended to be illustrative and is not meant to be a comprehensive list of synthetically derived cannabinoids. An appropriate table of compounds and associated action levels (that are above naturally-occurring levels<sup>3,4</sup>) should be developed in the CR102.***

**B - Prevention's Goal for this Recommended Language:**

***Ensure the prohibition on processing, manufacturing, or sale of any synthetically derived or completely synthetic cannabinoid (with limited exceptions) is clear, effectively implemented, and informed by lessons from public and consumer health.***



**C** - Concerning the implementation of Session Laws of 2023, Chapter 365 (2023), Section 5: (3) The producing, processing, manufacturing, or sale of any synthetically derived, or completely synthetic, cannabinoid is prohibited, except for products approved by the United States food and drug administration.

**D** - Relevant WACs:

WAC 314-55-010- Definitions

WAC 314-55-102(4) - Quality assurance and quality control - Required Quality Control Tests

WAC 314-55-509 - Penalty structure

WAC 314-55-560 - Evaluation of additives, solvents, ingredients, or compounds (by rule)

**E** - Evidence/data/history supporting this rule or need for this rule:

The need to regulate the contents of products sold by LCB-licensed retailers is exemplified by the E-cigarette or Vaping Use-Associated Lung Injury (EVALI) outbreak of recent years. Synthetically derived cannabinoids pose a similar and broader set of risks to consumer health due to the untested nature of the synthetic cannabinoids themselves, their byproducts, and reagents used in their production.

One example of this risk is closely related to EVALI: vaping of commercial products containing  $\Delta^8$ - THC can produce ketene<sup>5</sup>. Ketene is a poisonous gas and strongly linked to the EVALI outbreak<sup>6</sup>. The board should strongly consider the above rules to prevent a similar outbreak associated with synthetically derived cannabinoids or associated adulterants.

**F** - Notes:

LCB already has authority to require disclosure of ingredients and reagents from producers/ processors for inhalable cannabis (concentrates) (WAC 314-55-560)

Synthetically derived THC products identified through the testing system shall be added to the online list developed and maintained by LCB described in #1, above.

#### **Citations**

1. Golombek, P.; Müller, M.; Barthlott, I.; Sproll, C.; Lachenmeier, D.W (2020). Conversion of Cannabidiol (CBD) into Psychotropic Cannabinoids Including Tetrahydrocannabinol (THC): A Controversy in Scientific Literature. *Toxics* 2020, 8, 41. <https://doi.org/10.3390/toxics8020041>
2. OLCC. Considerations in Establishing Cannabinoid Limits for Hemp Products. (2021). [https://www.oregon.gov/olcc/Docs/commission\\_minutes/2021/Considerations-In-Establishing-Cannabinoid-Limits-Hemp-Whitepaper.pdf](https://www.oregon.gov/olcc/Docs/commission_minutes/2021/Considerations-In-Establishing-Cannabinoid-Limits-Hemp-Whitepaper.pdf)
3. Erikson, B. E. (2021). Delta-8 THC craze concerns chemists. C&en. <https://cendigitalmagazine.acs.org/2021/08/30/delta-8-thc-craze-concerns-chemists-3/content.html>
4. Smith CJ, Vergara D, Keegan B, Jikomes N (2022) The phytochemical diversity of commercial *Cannabis* in the United States. *PLoS ONE* 17(5): e0267498. <https://doi.org/10.1371/journal.pone.0267498>
5. Munger, K. R., Jensen, R. P., & Strongin, R. M. (2022). Vaping Cannabinoid Acetates Leads to Ketene Formation. *Chemical research in toxicology*, 35(7), 1202–1205. <https://doi.org/10.1021/acs.chemrestox.2c00170>
6. Narimani M, da Silva G (2020) Does 'Dry Hit' vaping of vitamin E acetate contribute to EVALI? Simulating toxic ketene formation during e-cigarette use. *PLOS ONE* 15(9): e0238140. <https://doi.org/10.1371/journal.pone.0238140>

Washington Healthy Youth (WHY)  
Harrison Fontaine  
February 2, 2024

Good morning rules team,  
Thank you holding engagement sessions regarding implementation of E2SSB 5367. Several participants of the WHY Cannabinoids Workgroup were able to join these calls, though some were not. At the engagement sessions, you mentioned that we could follow up via written feedback/survey responses- we're hoping for these responses to supplement and inform the interpretation of responses provided through the survey.

This input from the WHY Cannabinoids Workgroup represents discussions and feedback from at least 9 members. These members hold public health and SUD prevention positions at state agencies including DOH, LCB, and HCA -- as well as county-level agencies and public health-oriented nonprofits.

I'm happy to answer any questions you may have.  
Thanks sincerely for the work you do.

**ATTACHMENT**

Written feedback based on topics provided at December E2SSB 5367 rulemaking engagement sessions  
Discussion Topics

**1. Amended definition of "THC concentration"**

- o **Statutory change:** E2SSB 5367 expands the definition of "THC concentration" to include forms of THC, not only delta-9 THC, RCW 69.50.101
- o **Topics for consideration:**
  - i. What cannabinoids should be included in potency testing?
  - ii. How to define and calculate "active THC;"
    - We don't think this is a productive path. There are too many factors when considering which cannabinoids should be classified as active and too many aspects of potential cognitive effects to achieve a standardized single measure for active THC/cannabinoids that reflects currently available information. We suggest instead keeping the definition of total THC as it is currently, and effectively avoiding the emergence of other THC like compounds by prohibiting synthetic/ semi-synthetic production. Because research necessarily lags behind in evaluating the effects of new compounds, we believe this is the only strategy that will ensure a reliable measure of a product's total THC and corresponding impairment.
  - iii. How to define and calculate "total THC"
    - We prefer that the measurement be based on total THC and use the current formula for total THC concentration, or on an approach that labels each 'type' of THC present and the respective concentrations. In either case, the approach should be evaluated annually by a subject area expert group based on what is actually being observed by enforcement and in retail cannabis products.


## **2. Amended definition of “cannabis products”**

- **Statutory change:** E2SSB 5367 amended definition of “cannabis product” to include products that contain, “any detectable amount of THC.” RCW 69.50.101
- **Topics for consideration:**
  - i. How to define “detectable amount of THC” or “detectable level.”
    - We recommend the lowest level feasible, especially for heavy products. The Cannabinoid Science WG report suggested a detection level of .03%. We have concerns about that testing recommendation. At .03% THC, products that weigh a substantial amount could contain an impairing amount of cannabinoids.
- **Example: A 12 oz soda weighs approximately 350 grams. This means that the suggested .03% THC detectable limit would allow up to 105 mg of THC. This is 10 standard adult servings.**
  - i. This item could be sold outside of licensed retailers (so long as the THC is derived from hemp by non-synthetic means. This is the case with some currently available hemp derived products)
    - While there are technical detection limits for HPLC, the limits for determining THC concentration in various products also depends on the product type/matrix’
  - ii. Of particular importance is the detection method and limit for heavy products: liquid products like sodas and edible products like gummies.
    - LCB should consider methods that achieve a lower limit of detection for these products to support public health and consumer safety
  - iii. Alternatively, both a percentage and per unit or package limit could be set/ established for a detectable limit. For example, Oregon limits hemp products sold to minors at 0.5mg THC. This option is less preferable than setting a lower percentage limit for heavy products, but is preferred over the simple 0.03% THC detection threshold.

## **3. Prohibition on the use of synthetic cannabinoids**

- **Statutory changes:**
  - i. E2SSB 5367 amended RCW 69.50.326 to explicitly prohibit CBD products containing a “synthetic cannabinoid” to be used as an additive concentration.
    - We think there should be a limit to the processes that can be used to produce THC or similar compounds from cannabis for use in products. It makes sense to limit processing of THC to the reasonable application of heat, light, and pressure.
  - ii. E2SSB 5367 created a new section RCW 69.50.3251 that explicitly prohibits the producing, processing, manufacturing, or sale of any synthetically derived, or completely synthetic, cannabinoid is prohibited.
- **Topics for discussion**
  - i. How to define “synthetically derived cannabinoid,” or “completely synthetic cannabinoid.”

	<ul style="list-style-type: none"> <li>▪ Any compound or product that is developed from a non-plant natural starting point or that uses any processes other than heat, light, and pressure to produce THC compounds or products. These products would be outside the circle of allowable compounds and products.</li> </ul> <p><b>4. <u>New definitions for “package” and “unit”</u></b></p> <ul style="list-style-type: none"> <li>○ <b>Statutory change:</b> E2SSB 5367 created definitions for “package” and “unit.” (RCW.69.50.101)</li> <li>○ <b>Topics for consideration:</b> <ul style="list-style-type: none"> <li>i. What implications does replacing “container” with “package” throughout the rule have?</li> <li>ii. Would licensees be required to change the way they are currently packaging and labeling cannabis products.</li> <li>iii. Would the cost of the changes be higher or lower than current packaging costs?</li> <li>iv. How to define “serving” or “serving size.”</li> </ul> </li> </ul> <p><b>Key points/concerns</b></p> <ul style="list-style-type: none"> <li>▪ Labels to convey that higher potency products carry higher risks than lower potency products (ADA1 high THC consensus statement)</li> <li>▪ Labels need to effectively convey risks to youth as well</li> <li>▪ Labels needs to be graphic based (not based on mass/ weight) and focus heavily on safety</li> <li>▪ Recent LCB survey shows importance of labeling for consumer education</li> <li>▪ Consider universal warning symbol for individual unit, so that risk can be identified once units are removed from package.</li> <li>▪ Note concern about containers that have more than one serving size because consumers don’t necessarily consider the impacts that 2 or 3 gummies might have on them as compared with the impacts that a serving size of 1 might have.</li> </ul>
<p>From: Prairie Dog Pet Mercantile  <a href="mailto:woof@pdogpet.com">woof@pdogpet.com</a>          Deb Brady</p> <p>June 20, 2023          email</p>	<p>Hi Cassidy,          Thank you so much for taking the time to return my call today. It was a pleasure and somewhat of a relief to talk with you.          As we discussed, CBD/Hemp products have many beneficial uses for our pets (dogs, cats and horses). I'm just going to bullet a few of the ailments in pets for which CBD can have positive results leading to a better quality of life. Arthritis and joint pain</p> <ul style="list-style-type: none"> <li>○ Anxiety</li> <li>○ Cancer</li> <li>○ Cushing's Disease</li> <li>○ Allergies</li> <li>○ Nerve and pain management</li> <li>○ Digestive support</li> </ul> <p>If you are interested in any of the products we carry at the stores, I would be happy to provide links to the manufacturers.          If we are able to support your efforts during the rulemaking process please let me know. We would be happy to help.          Thank you very much!          Deb Brady</p>
<p>From: Bonny Jo Peterson  <a href="mailto:bonnyjopeterson@gmail.com">bonnyjopeterson@gmail.com</a>          email 5/2/24 to Justin Nordhorn</p>	<p>Currently, labs only need one instead of 8+ not including what does not exist. They have to calibrate daily. No lab or customer can absorb this.          On Thu, May 2, 2024, 3:49 PM Bonny Jo Peterson &lt;<a href="mailto:bonnyjopeterson@gmail.com">bonnyjopeterson@gmail.com</a>&gt;</p>

<p>Subject: FW: 12 Results I phytocannabinoid mixtures I Search I Cayman Chemical</p>	<p>wrote: To get most standards that actually exist on the list, it would cost 1000's of dollars each time they calibrate the equipment and switch between available standards. Amber was way low at 10x additional cost for testing per product. <a href="https://www.caymanchem.com/search?q=phytocannabinoid%20mixtures">https://www.caymanchem.com/search?q=phytocannabinoid%20mixtures</a></p>
<p>From: Luke Hunter to LCB rules Email Date: 4/18/24 Subject: E2SSB "THC Bill" Implementation</p>	<p>Good afternoon, I greatly appreciate the opportunity to share ideas and concerns about the specific language being proposed to be added into rule. Specifically I would like to highlight the potential challenges that will come from adding what would now be considered ancillary thc based cannabinoids into the 10mg limit. I do support the current limitation of 10mg thca per unit and I don't want to create loopholes for individuals to "spike" products with ancillary cannabinoids that could have additional psychoactive effects.</p> <p>Currently with the limitation of 10% THC in an edible it is easy for edible manufacturers to purchase distillate, live rosin, hydrocarbon concentrates, or other mixed cannabinoid concentrates to add to their products. Take those tested products and through volumetric solution based equations estimate with accuracy how much concentrate must be added to the product to get as close to 10mg thc per edible. Then if there are minor ancillary cannabinoids in those added concentrates they are not part of the legal limit calculation, this currently allows for ancillary thc cannabinoids to be spiked in products (this is currently a problem). We want to limit this however when we include all ancillary THC compounds into the definition of THC (statutory requirement) we will then start to eliminate full spectrum or even partial spectrum concentrate products from making their way into edibles. Even with distillate it is common for 90% delta 9 to be the potency, however with a total cannabinoid concentration of 95%, this 5% cannabinoids causes issue when trying to test for and calculate end potency in a product.</p> <p>The concern in with a 10mg all thc compounds limit, we will see the edible market shift towards thca isolate, this will be disruptive to the wholesale market and farmers. Further this will push the market away from full spectrum edible products, and the availability of full spectrum concentrates. What unfortunately sells is 10mg THC not 8.2mg THC with other minor cannabinoids.</p> <p>What I would like to propose is change the limitation around potency in edibles, we aren't bound to statutory restrictions with edible potencies which allows for creativity in addressing this problem. I would propose a limitation of 10mg Delta 9 THC and an allowance of up to 1mg other psychoactive cannabinoids. Something to this effect would allow for slight overages that currently exist under the current regulatory framework and market desires, while in my personal opinion curbing the current issue of edibles being sold with 10mg delta 9 thc and spiked with other currently not regulated minor cannabinoids.</p> <p>I hope this all makes sense, and I am happy to provide further explanation if something is unclear. Additionally I look forward to continuing the conversation on other sections of this rule change,</p> <div style="text-align: right;">  <p><b>Lukas S. Hunter</b> Director of Compliance &amp; Government Affairs ☎ 360.628.3380 ✉ Luke@HarmonyFarmsNW.com</p> </div>

	<p>Response: Email from Cassidy West, 4/19/24 Luke,</p> <p>Thanks so much for reaching out and providing input. I hear you and think I understand the concerns you have, but please let me know if I am missing the point, and of course am always happy to discuss further. For the THC bill implementation, to ensure the rulemaking stays limited in scope and minimize the compliance burden, changes that address non-THC compounds (minor cannabinoids like, CBG, CBN, CBC, etc.) will not be addressed in this rulemaking. The draft packaging and labeling rules posted on the website (and attached) for the workshop discussion on 4/23 require other non-delta9 THC compounds that the licensee tests for be included in the total THC calculation and included on the product label if it exceeds 1 mg/g. The 1 mg/g is not set, and I am looking forward to hearing from stakeholders about what they think the threshold concentration for THC compounds, other than delta 9, should be and why. We might want to consider adding language to 105 that requires a licensee to test for the compound if it is on the product label or marketed as part of the product, to ensure the product label accurately reflects the testing results.</p> <p>The proposed testing rules that will be discussed at the 4/26 workshop do not require additional cannabinoids to be tested, only testing for delta-9 THC/THCA and CBD/CBDA, as required in the current rules. However, IF a licensee either labels or markets a non-delta-9 THC compound, then testing is required, and the concentration must be included in the total THC calculation. Also, if a licensee chooses to test a non-delta9 THC compound and the concentration is above a certain threshold (which has yet to be determined), then the THC compound must be included in the total THC calculation and included on the product label. Please let me know if you have questions, concerns, etc. so we can connect. Thanks so much and happy 4/20 weekend! I hope you are able to get outside and enjoy the sunshine!</p> <p>Cheers, Cassidy 😊</p> <p>Attachment: 240418_E2SSB 5367 draft rules_WAC 314-55-105.pdf</p>
<p>Email Subject: Re: CR101 SB5367 From Jessica Tonani, jtonani verdabio.com Date: 5/11/24 To Cassidy West, cc: S. Okey and T. Hamilton-Steele</p>	<p>External Email Thank you Cassidy. &gt;&gt; I had seen the survey prior and agree &lt;1/3 /&gt;1/2 of people reported wanting those compounds reported. I think I disagree with the acid form of THC-D8 existing. I am glad the language is being updated. I look forward to talking in the future. Have a good weekend.</p> <p>Best, Jessica On May 10, 2024, at 8:17 AM, West, Cassidy (LCB) &lt;<a href="mailto:cassidy.west@lcb.wa.gov">cassidy.west@lcb.wa.gov</a>&gt; wrote: &gt;&gt;&gt; &lt;THC Bill Stakeholder Survey Results (Feb. 2024).pdf&gt;</p> <p>Responses 5/13/24 Jtonani verdabio.com: to: Cassidy west, cc: S. Okey, T. Hamilton-Steele</p> <p>External Email Our current theory is some plants make another compound that oxidizes the D9 to D8. We do see it at low levels in some plants (1 or 2%), but we have never captured an acid version. The other ones which is big flag is THCP-A for your meetings. My understanding is all the THCP on the market is synthetic meaning that you would not see the acid version (or at least that I know of). The acid elutes at around the 75</p>



	<p>minute  mark versus everything else I-502 labs test elutes within the first 15 minutes.  This means that compound would require several fold more run time on a system  decreasing lab capacity without much of a return. Have a good day.  Best, Jessica  &gt; On May 13, 2024, at 8:27 AM, West, Cassidy (LCB) &lt;<a href="mailto:cassidy.west@lcb.wa.gov">cassidy.west@lcb.wa.gov</a>&gt; wrote:  &gt;  &gt; Thank you for the clarification! I haven't seen it in any of the products either.  Since we are not planning to include a list in rule, the information you provided will be  helpful for my meetings with public health/prevention folks this week. If you have  any other information about why it would be unreasonable to test for certain THCs,  please send it my way.  Have a great day!  Thanks, Cassidy  &gt; -----Original Message-----  &gt; From: jtonani verdabio.com &lt;<a href="mailto:jtonani@verdabio.com">jtonani@verdabio.com</a>&gt;  &gt; Sent: Monday, May 13, 2024 7:09 AM  &gt; To: West, Cassidy (LCB) &lt;<a href="mailto:cassidy.west@lcb.wa.gov">cassidy.west@lcb.wa.gov</a>&gt;  &gt; Cc: Okey, Sarah (LCB) &lt;<a href="mailto:sarah.okey@lcb.wa.gov">sarah.okey@lcb.wa.gov</a>&gt;; Hamilton-Steele, Tierney A (LCB)  &lt;<a href="mailto:tierney.hamilton@lcb.wa.gov">tierney.hamilton@lcb.wa.gov</a>&gt;  &gt; Subject: Re: CR101 SB5367  &gt;  &gt; External Email  That is correct. I am not certain it exists in any products. I have always been told THC D8  occurred from THC D9. I have also asked several chemist in the space and no one has ever  seen an acid for of D8. To the best of my knowledge THC D8 is not made from an acid form.  I am open to data showing it exist. Have you been able to find it in any publications or  products? Without data showing it the method D8 is made from, my sentiment is labs  should not be required to test for it.  &gt;  &gt; I think the list can be shortened substantially based on understanding of current  production chemistry (plant or synthetic). I am not an organic chemist and so what I know  is based upon us working on the molecular biology of the plants. Brad Douglas, Amber  Wise, Richard Sams or  David Gang are chemist who could probably help with the list. The plant itself makes some  of these compounds and then others are made by breaking down compounds like THC-D9/  CBD etc. Understanding which ones may not have an acid could help narrow the list.  Best, Jessica  &gt;&gt; On May 13, 2024, at 6:06 AM, West, Cassidy (LCB) &lt;<a href="mailto:cassidy.west@lcb.wa.gov">cassidy.west@lcb.wa.gov</a>&gt; wrote:    Thanks, Jessica. I hope you had a nice weekend. I want to make sure I understand your  concerns about D8, to clarify, do you disagree with adding D8 THCA-A (CAS 23978-89-4)  to the list? If so, why? It is helpful for me to understand so I can explain to other  stakeholders if they ask why/why we didn't include something.  Thanks, Cassidy</p>
<p>From Sarah Okey to Jessica Tonani,  jtonani verdabio.com, cc: Cassidy West,  Date: 5/10/24  Series of Emails with Subject RE: CR101  SB5367</p>	<p>Hi Jessica – Woops, thanks for looping Cassidy into the email chain! And for providing  information to others in the workgroup. Looking forward to hearing feedback from others.  I hope you also have a good weekend,  Sarah</p>

**Prior set of email leading up to this email:**

**From:** jtonani verdabio.com <[jtonani@verdabio.com](mailto:jtonani@verdabio.com)>  
**Sent:** Friday, May 10, 2024 6:56 AM  
**To:** Okey, Sarah (LCB) <[sarah.okey@lcb.wa.gov](mailto:sarah.okey@lcb.wa.gov)>  
**Cc:** West, Cassidy (LCB) <[cassidy.west@lcb.wa.gov](mailto:cassidy.west@lcb.wa.gov)>  
**Subject:** Re: CR101 SB5367

External Email

Thanks Sarah.

I had reached out to Cassidy earlier in the week. As a heads up, I am not sure she was cc'd on the email you sent and so I am sending this to you and her so she can see the trail. However, we had spent a lot of time the last few cannabinoids science meeting discussing ideas around this rules set and two people had asked me what was going on which is why I sent the email including you on it. It is obviously very different than the discussion we had. I understand that the AG and others may have had input on the current draft. I did not want to bias others, but I do think getting feedback on issues can save headaches in the future.

I hope you have a good weekend.

Best,

Jessica

On May 9, 2024, at 4:59 PM, Okey, Sarah (LCB) <[sarah.okey@lcb.wa.gov](mailto:sarah.okey@lcb.wa.gov)> wrote:

Hi Jessica,

Thanks for reaching out and for your input. I reached out to Cassidy West (who is cc'd on this email) to make sure these concerns are addressed. Other revisions are also currently being incorporated

from the last stakeholder engagement session. Thank you also for pointing out the typo on LOQ being 0.1% and not 0.01% - that has been changed.

Any additional comments are welcome. Cassidy is available to meet and Tierney ([tierney.hamilton@lcb.wa.gov](mailto:tierney.hamilton@lcb.wa.gov)) can help schedule a meeting if you would like!

For those who are not able to provide your thoughts during this informal comment period, there will also be a formal comment period if the Board approves the CR102.

Thank you again,

Sarah

**Sarah Okey, Ph.D.**

Research Program Manager

Washington State Liquor & Cannabis Board

[Sarah.Okey@lcb.wa.gov](mailto:Sarah.Okey@lcb.wa.gov) | 360.621.1006 (Mobile)

**From:** jtonani [verdabio.com](mailto:verdabio.com) <[jtonani@verdabio.com](mailto:jtonani@verdabio.com)>

**Sent:** Wednesday, May 8, 2024 4:44 PM

**To:** David Roger Gang <[gangd@wsu.edu](mailto:gangd@wsu.edu)>

**Cc:** Taylor Carter <[Taylor.Carter@uscmed.sc.edu](mailto:Taylor.Carter@uscmed.sc.edu)>; Chris Beecher <[chris@iroatech.com](mailto:chris@iroatech.com)>; Richard Sams' <[rsams@kcalabs.com](mailto:rsams@kcalabs.com)>; Peck, Angela (LCB) <[angela.peck@lcb.wa.gov](mailto:angela.peck@lcb.wa.gov)>; Klein, Tracy Ann <[taklein@wsu.edu](mailto:taklein@wsu.edu)>; Holly Moody <[hollymoody73@gmail.com](mailto:hollymoody73@gmail.com)>; Brad Douglass <[bjdphd@gmail.com](mailto:bjdphd@gmail.com)>; [stowery@gmail.com](mailto:stowery@gmail.com); McLaughlin, Ryan <[ryan.mclaughlin@wsu.edu](mailto:ryan.mclaughlin@wsu.edu)>; Nordhorn, Justin T (LCB) <[justin.nordhorn@lcb.wa.gov](mailto:justin.nordhorn@lcb.wa.gov)>; Vollendroff, Jim (LCB) <[jim.vollendroff@lcb.wa.gov](mailto:jim.vollendroff@lcb.wa.gov)>; Okey, Sarah (LCB)



<[sarah.okey@lcb.wa.gov](mailto:sarah.okey@lcb.wa.gov)>

**Subject:** Re: CR101 SB5367

External Email

I think the issue is there is typo in the LOQ as it should be 0.1% I believe not 0.01%.  
On May 8, 2024, at 4:01 PM, Gang, David Roger <[gangd@wsu.edu](mailto:gangd@wsu.edu)> wrote:  
There is an issue on page 25 regarding LOD and LOQ – they have them backwards (regardless of whether these values are attainable) “limit of quantitation (LOQ) of 0.01% (0.10 mg/g or 100 ppm) or lower, and limit of detection (LOD) of 0.03% or lower (0.30 mg/g or 300 ppm)”.  
LOQ is USUALLY a larger number than LOD.  
Maybe the values for LOD should be “0.003% or lower (0.03 mg/g or 30 ppm)”??  
What they have doesn’t make sense, that is the issue.  
\*\*\*\*\*

David R. Gang  
Director, Center for Cannabis Policy, Research and Outreach (CCPRO)  
Director, Tissue Imaging, Metabolomics and Proteomics Laboratory  
Professor and Fellow, Institute of Biological Chemistry  
Washington State University  
IBC/PSB 111B  
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Cell +1-520-465-7229  
Tel. +1-509-335-0550  
Fax +1-509-335-7643  
[gangd@wsu.edu](mailto:gangd@wsu.edu)

**From:** jtonani [verdabio.com](http://verdabio.com) <[jtonani@verdabio.com](mailto:jtonani@verdabio.com)>

**Sent:** Wednesday, May 8, 2024 11:10 AM

**To:** Taylor Carter <[Taylor.Carter@uscmed.sc.edu](mailto:Taylor.Carter@uscmed.sc.edu)>; Chris Beecher <[chris@iroatech.com](mailto:chris@iroatech.com)>;  
Richard Sams' <[rsams@kcalabs.com](mailto:rsams@kcalabs.com)>; Peck, Angela (LCB) <[angela.peck@lcb.wa.gov](mailto:angela.peck@lcb.wa.gov)>;  
Klein, Tracy Ann <[taklein@wsu.edu](mailto:taklein@wsu.edu)>; Holly Moody <[hollymoody73@gmail.com](mailto:hollymoody73@gmail.com)>;  
Gang, David Roger <[gangd@wsu.edu](mailto:gangd@wsu.edu)>; Brad Douglass <[bjdphd@gmail.com](mailto:bjdphd@gmail.com)>;  
[stowery@gmail.com](mailto:stowery@gmail.com); McLaughlin, Ryan <[ryan.mclaughlin@wsu.edu](mailto:ryan.mclaughlin@wsu.edu)>

**Cc:** Nordhorn, Justin T (LCB) <[justin.nordhorn@lcb.wa.gov](mailto:justin.nordhorn@lcb.wa.gov)>; Vollendroff, Jim (LCB) <[jim.vollendroff@lcb.wa.gov](mailto:jim.vollendroff@lcb.wa.gov)>; Okey, Sarah (LCB) <[sarah.okey@lcb.wa.gov](mailto:sarah.okey@lcb.wa.gov)>

**Subject:** CR101 SB5367

**[EXTERNAL EMAIL]**

Hello All,

I hope this email finds you well. I wanted to bring to your attention that the proposed rules for SB5367 are available for public comment closing next week. As members of the cannabinoid science workgroup, our insights and feedback are crucial in shaping regulations that accurately reflect the scientific understanding and advancements in this field. Once a CR101 is approved it moves to CR102 where feedback is much harder to incorporate. The draft is available at [https://lcb.wa.gov/sites/default/files/publications/Cannabis/240502\\_THC%20bill\\_works\\_hop%204.pdf](https://lcb.wa.gov/sites/default/files/publications/Cannabis/240502_THC%20bill_works_hop%204.pdf)

	<p>I will be commenting on the rules personally specifically on the provisions related to cannabinoid testing lists (THCA-D8, THCA-P and THCv) and the determination of total THC (page 25). These regulations will have a significant impact on industry practices, consumer safety, the cost of testing and the long-term viability of the WA market. Therefore, I wanted to circulate the draft.</p> <p>Our feedback can help ensure that the rules align with scientific rigor and industry best practices.</p> <p>Additionally, feel free to reach out if you have any question on my personal feedback.</p> <p>Best regards,          Jessica          Jessica Tonani          206-669-4402</p>
<p>From: Lorelei Walker (DOH) to Cassidy West          Subject: RE: Final draft of proposed rules          Date: May 1, 2024</p>	<p>Hey Cassidy!</p> <p>I'll admit the latest updates are so over my head! But I am trying to pick up on other things that impact our rulemaking. One thing I noticed is the striking of third-party when referring to labs. I can ask TJ and Johnny, but do you have a quick explanation for the rationale. I don't see a definition, and I know the WSDA will accredit, LCB will certify labs in the future. We have an outdated definition of lab, and will update to reflect the changes. Not sure yet what term we should use (laboratory or lab, certified lab, accredited lab, or lab means...WSDA acc/LCB cert).</p> <p>Anyway, before I forget, I noticed a "third-party" reference at the top of page 92. Thought it may have been one that got missed.</p> <p>Thanks~</p> <p>Additional emails included with series:</p> <p><b>From:</b> West, Cassidy (LCB) &lt;cassidy.west@lcb.wa.gov&gt;  <b>Sent:</b> Wednesday, May 1, 2024 11:32 AM  <b>To:</b> Michaelsen, Dave (AGR) &lt;David.Michaelsen@agr.wa.gov&gt;; Ehrlich, Trecia (AGR) &lt;TEhrlich@agr.wa.gov&gt;; Poolman, Nicholas (AGR) &lt;Nicholas.Poolman@agr.wa.gov&gt;; Christiansen, Lauren (AGR) &lt;Lauren.Christiansen@agr.wa.gov&gt;; Wong, Johnny (DOH) &lt;Johnny.Wong@doh.wa.gov&gt;; Johnson, Tholo J (DOH) &lt;tholo.johnson@doh.wa.gov&gt;; Walker, Lorelei M (DOH) &lt;Lorelei.Walker@DOH.WA.GOV&gt;  <b>Subject:</b> FW: Final draft of proposed rules</p> <p>Good morning,</p> <p>Attached are the latest draft of the THC bill rules that will be discussed at tomorrow's workshop.</p> <p>More details about the substantive changes that have been made are provided below. You can find the draft on the THC bill teams channel here: This rules can be found on the THC bill teams channel here: <a href="#">240429_THC bill (all rule sections).docx</a>.</p> <p>Please let me know if you have any questions or difficulty accessing the document. Thanks for all</p>

the collaboration and feedback, I really appreciate it. There is still an opportunity for internal feedback, so if you see anything burning that I need to address, please don't hesitate to reach out.

The deadline for sending me comments on the draft is 5/10.

Thanks,  
Cassidy

**From:** West, Cassidy (LCB)

**Sent:** Wednesday, May 1, 2024 9:26 AM

**To:** Nordhorn, Justin T (LCB) <[justin.nordhorn@lcb.wa.gov](mailto:justin.nordhorn@lcb.wa.gov)>; Haley, Kristen (LCB) <[kristen.haley@lcb.wa.gov](mailto:kristen.haley@lcb.wa.gov)>; McCallum, Matthew C (LCB) <[matthew.mccallum@lcb.wa.gov](mailto:matthew.mccallum@lcb.wa.gov)>; Harrell, Susan L (LCB) <[susan.harrell@lcb.wa.gov](mailto:susan.harrell@lcb.wa.gov)>; Dzubay, Jennifer (LCB) <[jennifer.dzubay@lcb.wa.gov](mailto:jennifer.dzubay@lcb.wa.gov)>; Peck, Angela (LCB) <[angela.peck@lcb.wa.gov](mailto:angela.peck@lcb.wa.gov)>; Webster, Marc (LCB) <[marc.webster@lcb.wa.gov](mailto:marc.webster@lcb.wa.gov)>; McQuay, Brian (LCB) <[brian.mcquay@lcb.wa.gov](mailto:brian.mcquay@lcb.wa.gov)>; Tinnerstet, Kandra J (LCB) <[kandra.tinnerstet@lcb.wa.gov](mailto:kandra.tinnerstet@lcb.wa.gov)>; Murphy, Matthew W (LCB) <[matthew.murphy@lcb.wa.gov](mailto:matthew.murphy@lcb.wa.gov)>; Kildahl, Jeff (LCB) <[jeff.kildahl@lcb.wa.gov](mailto:jeff.kildahl@lcb.wa.gov)>; Trumbull, Kari (LCB) <[kari.trumbull@lcb.wa.gov](mailto:kari.trumbull@lcb.wa.gov)>; Okey, Sarah (LCB) <[sarah.okey@lcb.wa.gov](mailto:sarah.okey@lcb.wa.gov)>; Laflamme, Denise M (LCB) <[denise.laflamme@lcb.wa.gov](mailto:denise.laflamme@lcb.wa.gov)>; Berndt, Raneea (LCB) <[raneea.berndt@lcb.wa.gov](mailto:raneea.berndt@lcb.wa.gov)>; Early, Shane (LCB) <[shane.early@lcb.wa.gov](mailto:shane.early@lcb.wa.gov)>; Kolle, Shane (LCB) <[shane.kolle@lcb.wa.gov](mailto:shane.kolle@lcb.wa.gov)>  
**Cc:** Jacobs, Daniel (LCB) <[daniel.jacobs@lcb.wa.gov](mailto:daniel.jacobs@lcb.wa.gov)>; Hamilton-Steele, Tierney A (LCB) <[tierney.hamilton@lcb.wa.gov](mailto:tierney.hamilton@lcb.wa.gov)>

**Subject:** Final draft of proposed rules

Good morning,

Attached are the final draft proposed rules that we will review/discuss at the workshop tomorrow. The following substantive changes were made based on stakeholder feedback:

1. Created new definitions (WAC 314-55-010) – “decarboxylation” and “conversion factor.”
2. Added new language to WAC 314-55-095 to clarify what is meant by “active THC” when talking about serving sizes for edibles, and that any THC compound that has a concentration greater than 1 mg/g or 1 mg/ML, as appropriate, must be included as part of the active THC – this is consistent with the threshold language we previously discussed.
3. Removed the requirement that “total THC” is the sum of the THC compounds detected (d8 + d9, etc.), and that “total THC” must be calculated for the individual THC compounds detected in the analysis (>0.03%).
4. Amended WAC 314-55-102 and changed “% by dry weight” to “% by weight” to address the samples being received ‘as is’ comment.
5. Amended WAC 314-55-102 to include THC compounds that would be considered “tetrahydrocannabinols” and must therefore be tested under WAC 314-55-102.

Please let me know if you have any questions or concerns. Please note, this draft is not final but for purposes of the discussion tomorrow. If anyone wants to connect and regarding any of the changes, please let me know. Otherwise, we will all meet again on 5/6 to discuss feedback/comments from the workshop and begin finalizing the rules for the CR-102 filing. The rules can be found on the THC bill teams channel here: [240429\\_THC bill \(all rule sections\).docx](#)

Thank you all for the hard work and I hope everyone has a great day!

Cassidy West  
Policy and Rules Manager  
Director's Office

	<p>Washington State Liquor &amp; Cannabis Board          Email <a href="mailto:cassidy.west@lcb.wa.gov">cassidy.west@lcb.wa.gov</a>   Cell (360) 878-4235</p>
<p>Email from jtonani verdabio.com          Date: 5/16/24          To <a href="mailto:rules@lcb.wa.gov">rules@lcb.wa.gov</a>          Subject: SB5367</p>	<p><b>From:</b> jtonani verdabio.com &lt;jtonani@verdabio.com&gt;  <b>Sent:</b> Thursday, May 16, 2024 6:44 AM  <b>To:</b> LCB DL Rules &lt;rules@lcb.wa.gov&gt;  <b>Subject:</b> SB5367          External Email</p> <p>I am writing to express my concerns regarding the recent CR101 proposal for SB5367 cannabis rules.</p> <p>I believe that the alignment of cannabis regulations in Washington State should align with other states (especially west coast), with the aim of facilitating a smoother transition when either interstate commerce or federal legalization occurs. As the cannabis industry continues to evolve and gain momentum, it is imperative that state regulations are harmonized to create consistency and coherence across different jurisdictions.</p> <p>By aligning with other states, Washington can ensure a level playing field for businesses operating within its borders and create a more seamless experience for consumers and industry stakeholders. Additionally, alignment with federal standards will help Washington's cannabis industry prepare for the eventual transition to federal legalization, whenever that may occur.</p> <p>I am concerned with how the rule making will move us further from other states particularly the inclusion of testing requirements for Delta-8 THCA (and other rare or non-excitant acids). As an advocate for evidence-based policymaking and a supporter of the cannabis industry, I believe it is crucial to ensure that regulations are both scientifically sound and practical for implementation.</p> <p>Firstly, I am not certain that Delta-8 THCA, as mentioned in the proposed regulations, exist. While Delta-8 THC is a known cannabinoid, THCA refers to tetrahydrocannabinolic acid, which is the precursor to THC and does not naturally occur in the Delta-8 form. This discrepancy raises questions about the accuracy and thoroughness of the regulatory proposal. Delta-8 THC is produced from Delta-9 THC. Delta-9 THC is produced from Delta-9 THCA.</p> <p>Furthermore, the inclusion of testing requirements for a rare (possibly nonexistent) compound may impose unnecessary burdens on cannabis businesses without providing any tangible benefits for consumer safety or regulatory compliance. Instead, I urge the regulatory body to consult with scientists to ensure that any testing requirements are based on current scientific knowledge and reflect the realities of cannabis chemistry. Consulting with scientists and experts in the field will not only help to avoid inaccuracies and inconsistencies in the proposed regulations but also foster collaboration between regulators and the scientific community. By working together, we can develop regulations that are effective, efficient, and grounded in scientific evidence.</p> <p>In conclusion, I respectfully request that the LCB reconsider the proposed rule set and take proactive steps to engage with scientists and experts in the cannabis field to inform any modifications to the proposed regulations. Furthermore, collaboration with other state regulators, industry stakeholders, and policymakers will be essential in developing a framework that reflects best practices and promotes the long-term success of the cannabis industry in Washington.</p> <p>Thank you for your attention to this matter. I look forward to seeing a thoughtful and</p>

	<p>evidence-based approach to cannabis regulation that prioritizes both public safety and industry viability.</p> <p>Best, Jessica Jessica Tonani Verda Bio Research 206-669-4402</p> <p>Response: May 16, 2024 From Cassidy West, To jtonani verdabio.com; rules@lcb.wa.gov</p> <p>Thanks, Jessica.</p> <p>Cassidy West Policy and Rules Manager Director's Office Washington State Liquor &amp; Cannabis Board Email <a href="mailto:cassidy.west@lcb.wa.gov">cassidy.west@lcb.wa.gov</a>   Cell (360) 878-4235</p>
<p>WHY 5367 engagement follow-up_02_02_24 Written feedback based on topics provided at Dec. E2SSB 5367 rulemaking engagement sessions</p>	<p>Written feedback based on topics provided at December E2SSB 5367 rulemaking engagement sessions</p> <p>Discussion Topics</p> <ol style="list-style-type: none"> <li>1. Amended definition of "THC concentration" <ul style="list-style-type: none"> <li>o Statutory change: E2SSB 5367 expands the definition of "THC concentration" to include forms of THC, not only delta-9 THC, RCW 69.50.101</li> <li>o Topics for consideration: <ol style="list-style-type: none"> <li>1. What cannabinoids should be included in potency testing? <ul style="list-style-type: none"> <li>• How to define and calculate "active THC;"</li> </ul> </li> </ol> </li> </ul> </li> </ol> <p>We don't think this is a productive path.</p> <p>There are too many factors when considering which cannabinoids should be classified as active and too many aspects of potential cognitive effects to achieve a standardized single measure for active THC/cannabinoids that reflects currently available information. We suggest instead keeping the definition of total THC as it is currently, and effectively avoiding the emergence of other THC like compounds by prohibiting synthetic/ semi-synthetic production. Because research necessarily lags behind in evaluating the effects of new compounds, we believe this is the only strategy that will ensure a reliable measure of a product's total THC and corresponding impairment.</p> <ul style="list-style-type: none"> <li>• How to define and calculate "total THC."</li> </ul> <p>We prefer that the measurement be based on total THC and use the current formula for total THC concentration, or on an approach that labels each 'type' of THC present and the respective concentrations. In either case, the approach should be evaluated annually by a subject area expert group based on what is actually being observed by enforcement and in retail cannabis products.</p> <ol style="list-style-type: none"> <li>2. Amended definition of "cannabis products" <ul style="list-style-type: none"> <li>o Statutory change: E2SSB 5367 amended definition of "cannabis product" to include products that contain, "any detectable amount of THC." RCW 69.50.101</li> <li>o Topics for consideration:</li> </ul> </li> </ol>

1. How to define “detectable amount of THC” or “detectable level.”  
 We recommend the lowest level feasible, especially for heavy products. The Cannabinoid Science WG report suggested a detection level of .03%. We have concerns about that testing recommendation. At .03% THC, products that weigh a substantial amount could contain an impairing amount of cannabinoids

- Example: A 12 oz soda weighs approximately 350 grams. This means that the suggested .03% THC detectable limit would allow up 105 mg of THC. This is 10 standard adult servings.

This item could be sold outside of licensed retailers (so long as the THC is derived from hemp by non-synthetic means. This is the case with some currently available hemp derived products)

- o While there are technical detection limits for HPLC, the limits for determining THC concentration in various products also depends on the product type/‘matrix’  
 Of particular importance is the detection method and limit for heavy products: liquid products like sodas and edible products like gummies
- LCB should consider methods that achieve a lower limit of detection for these products to support public health and consumer safety

Alternatively, both a percentage and per unit or package limit could be set/ established for a detectable limit. For example, Oregon limits hemp products sold to minors at 0.5mg THC.  
 This option is less preferable than setting a lower percentage limit for heavy products, but is preferred over the simple 0.03% THC detection threshold.

3. Prohibition on the use of synthetic cannabinoids

- o Statutory changes:
  1. E2SSB 5367 amended RCW 69.50.326 to explicitly prohibit CBD products containing a “synthetic cannabinoid” to be used as an additive concentration.  
 We think there should be a limit to the processes that can be used to produce THC or similar compounds from cannabis for use in products. It makes sense to limit processing of THC to the reasonable application of heat, light, and pressure.
  2. E2SSB 5367 created a new section RCW 69.50.3251 that explicitly prohibits the producing, processing, manufacturing, or sale of any synthetically derived, or completely synthetic, cannabinoid is prohibited.
    - o Topics for discussion
      1. How to define “synthetically derived cannabinoid,” or “completely synthetic cannabinoid.”  
 Any compound or product that is developed from a non-plant natural starting point or that uses any processes other than heat, light, and pressure to produce THC compounds or products.  
 These products would be outside the circle of allowable compounds and products.

- o New definitions for “package” and “unit”
- o Statutory change: E2SSB 5367 created definitions for “package” and “unit.” (RCW.69.50.101)
- o Topics for consideration:
  1. What implications does replacing “container” with “package” throughout the rule have?
    - Would licensees be required to change the way they are currently packaging and labeling cannabis products.
    - Would the cost of the changes be higher or lower than current packaging costs?
  2. How to define “serving” or “serving size.”

Key points/concerns

- Labels to convey that higher potency products carry higher risks than lower potency

	<p>products (ADAI high THC consensus statement)</p> <ul style="list-style-type: none"> <li>• Labels need to effectively convey risks to youth as well</li> <li>• Labels needs to be graphic based (not based on mass/ weight) and focus heavily on safety</li> <li>• Recent LCB survey shows importance of labeling for consumer education</li> <li>• Consider universal warning symbol for individual unit, so that risk can be identified once units are removed from package.</li> <li>• Note concern about containers that have more than one serving size because consumers don't necessarily consider the impacts that 2 or 3 gummies might have on them as compared with the impacts that a serving size of 1 might have.</li> </ul>
<p>Email to: <a href="mailto:Rules@lcb.wa.gov">Rules@lcb.wa.gov</a>, cc: Cassidy West, Justin Nordhorm, chemist (LCB), from Amber Wise, <a href="mailto:amber@medicinecreekanalytics.com">amber@medicinecreekanalytics.com</a>  Date: 5/15/24  Subject: Comments on CR101 for implementation of SB 5367.</p>	<p>Hello LCB staff,  Thanks for the opportunity to comment on the draft rules for implementing 5367. Before I get into my specific comments, I would like to invite any of your rules and/or enforcement staff to come and visit the Medicine Creek Analytics lab at your convenience and  I'm happy to walk you through some of the testing nuances or answer any questions you might have. Our doors are always open and we welcome the opportunity to educate and help folks understand what is sometimes a very complicated process.</p> <p>As I mentioned during the public meeting, requiring testing and reporting for a lot of rare and difficult-to-source cannabinoids would drastically increase the cost of testing and require a complete overhaul of our methods during a year when we are changing the accreditation standards and the list of proposed chemicals are not included in the approved cannabinoid method posted by the WSDA. Washington should be looking to align ourselves as closely as possible with other jurisdictions so the industry isn't at a huge disadvantage if/when interstate commerce is allowed in whatever form that takes.</p> <p>I recommend looking at the ASTM cannabis product labeling document (also attached in this email), federal regulatory bodies are required to adopt ASTM standards if they exist. There is a definition for total THC included.</p> <p>My biggest recommendation for labeling and understanding "total THC" is that whatever cannabinoids are advertised on the package should be included on the label. Licensees are absolutely adding CBG, CBN, CBD to products and advertising this, so to ignore their existence isn't helpful to customers. I obviously am aware these molecules don't fall under the "total THC" definition and SB5367 is specific regarding 'total THC' but if synthetic cannabinoids are banned, there isn't really another naturally-occurring molecule that will fall under the "THC"-like category that will be in high enough concentration to add to impairment.</p> <p>Ideally, there should be a QR code on the label that leads to the original COA pdf. This would alleviate several issues/complaints within I-502:</p> <ul style="list-style-type: none"> <li>• Customers are rarely, if ever, able to access COAs at the stores like they're supposed to, so each store could have one tablet for folks to scan QR codes if they didn't want to or are unable to use their phones.</li> <li>• All the cannabinoids that were tested for will already be included in the COA (including CBG/A, CBN, delta8THC)</li> </ul>



	<ul style="list-style-type: none"> <li>the lab where the testing occurred will be visible, as well as a lot of other details like LOD/LOQ, lot numbers, dates of testing and other information already required by rules to appear on the COA.</li> <li>the full terpene profile (if tested) will be available as well as complete compliance testing results</li> <li>Much of the information currently required on the label is already part of the COA, so it would ultimately end up saving space on the label. Licensee #, product inventory ID, and QR code would be all that's necessary to convey much more information than is currently available.</li> </ul> <p>My final comment would be to clarify the section that lists some examples of synthetics that are not allowed (section v) on page 28 of the most recent version. I recommend the LCB work with a testing lab that can actually see those molecules, otherwise it's completely un-enforceable. To my knowledge, none of the accredited 3<sup>rd</sup> party labs have these compounds on their regular list and it would be almost impossible for us to identify an unknown peak to report as "suspicious" to the LCB board.</p> <p>I also recommend that if there are reporting requirement changes, keep in mind the CCRS reporting platform is currently unable to handle any other molecules than are already listed in the WAC, so updates will need to be made to that system to support any other type of reporting.</p> <p>Again, I reiterate my invitation to call or visit our facility so we're able to explain what kinds of products we see, how we accomplish the chemistry and some of the difficulties we have with more nuanced areas of rules.</p> <p>My work number is 253-320-8530.</p> <p>Sincerely,  <b>Amber Wise, PhD</b>  <b>Scientific Director</b>  <b>Medicine Creek Analytics</b></p>									
<p>Email from Jay Burns  <a href="mailto:jay@treelineanalytics.com">jay@treelineanalytics.com</a>          Treeline laboratory, To:          Rules@lcb.wa.gov</p>	<p>Hello,          Please find our comments on the draft rule changes to WAC 314-55 attached to this email. Feel free to contact us with any questions regarding our comments.</p> <p>Thank you,          --jay          J. Burns, PhD          Lab Director          5373 Guide Meridian, Suite F-201          Bellingham, WA 98226          Office: 360.306.3601  <b>See Attachment:</b> Comment letter. Dated May 15, 2024. (Letter text is not included in this table.)</p>									
<p><b>Comments from Brook Davies?</b></p>										
<p>WSDA Email 5/16/24          David Michaelson;          david.michaelson@agr.wa.gov          Agricultural Environmental Services          Division</p>	<p>Provided New Proposed Tables in email 5_16_24 and references          Email: Attached are the documents from this morning's meeting. Attached Word document:  <b>New Proposed Tables for WAC 314-55-102</b>  <b>Flower</b></p> <table border="1" data-bbox="719 1766 1390 1873"> <thead> <tr> <th>Cannabinoid</th> <th>LLOQ (mg/g)</th> <th>CAS #</th> </tr> </thead> <tbody> <tr> <td>CBD</td> <td>0.10</td> <td>13956-29-1</td> </tr> <tr> <td>CBDA</td> <td>0.10</td> <td>1244-58-2</td> </tr> </tbody> </table>	Cannabinoid	LLOQ (mg/g)	CAS #	CBD	0.10	13956-29-1	CBDA	0.10	1244-58-2
Cannabinoid	LLOQ (mg/g)	CAS #								
CBD	0.10	13956-29-1								
CBDA	0.10	1244-58-2								



$\Delta$ 9-THC	0.10	1972-08-3
$\Delta$ 9-THCA	0.10	23978-85-0
CBG	0.10	25654-31-3
THCV	0.10	31262-37-0
$\Delta$ 8-THC	0.10	5957-75-5

Cannabinoids marked in green are included in the California and New York testing methods. **CBN** and **CBC** are both included in these methods but were excluded from this proposed table above because they were not THC compounds and did not show significant diagnostic information.

**CBG** and  **$\Delta$ 8-THC** are included because they show significant diagnostic information and allow for a baseline to be established with flower samples that have a low odds of being either synthesized or being grown as hemp outside of the I-502 system.

#### Concentrates and Edibles

Cannabinoid	LLOQ (mg/g)	CAS #
CBD	0.50	13956-29-1
CBDA	0.50	1244-58-2
$\Delta$ 9-THC	0.50	1972-08-3
$\Delta$ 9-THCA	0.50	23978-85-0
CBG	0.50	25654-31-3
THCV	0.50	31262-37-0
$\Delta$ 8-THC	0.50	5957-75-5
cis- $\Delta$ 9-THC	0.50	6087-73-6

One additional cannabinoid (**cis- $\Delta$ 9-THC**) is added to this list to differentiate between naturally derived  $\Delta$ 9-THC from cannabis products and  $\Delta$ 9-THC produced from hemp or synthesized from CBD.

Additional cannabinoids such as **CBGA**, **THCVA**, and  **$\Delta$ 10-THC** could be useful and create a more holistic picture. However, these tables included only the additional cannabinoids that are the most abundant, diagnostically relevant, and amenable to analytical testing.

**$\Delta$ 8-iso-THC** was also considered but was not included because it coelutes during regular reverse phase separations with  **$\Delta$ 8-THC** and does not need to be separated.

#### Current WAC 314-55-102 Table:

Cannabinoid	LLOQ (mg/g)	CAS #
CBD	1.0	13956-29-1
CBDA	1.0	1244-58-2
$\Delta$ 9-THC	1.0	1972-08-3
$\Delta$ 9-THCA	1.0	23978-85-0

#### California Cannabinoid Method

Cannabinoid	LOD (mg/g)	LLOQ (mg/g)	CAS #
CBD	0.055	0.165	13956-29-1
CBDA	0.011	0.032	1244-58-2
$\Delta$ 9-THC	0.014	0.041	1972-08-3
$\Delta$ 9-THCA	0.013	0.039	23978-85-0
CBG	0.037	0.111	25654-31-3
CBN	0.003	0.009	521-35-7

THCV	0.035	0.105	31262-37-0
Δ8-THC	0.036	0.108	5957-75-5
CBC	0.008	0.025	20675-51-8

**NYS DOH Method**

Cannabinoid	LLOQ (mg/g)	CAS #
CBD	0.040	13956-29-1
CBDA	0.040	1244-58-2
Δ9-THC	0.040	1972-08-3
Δ9-THCA	0.040	23978-85-0
CBG	0.040	25654-31-3
CBN	0.040	521-35-7
THCV	0.040	31262-37-0
Δ8-THC	0.040	5957-75-5
CBC	0.040	20675-51-8
CBGA	0.040	25555-57-1
CBDV	0.040	24274-48-4
9R Δ10-THC	0.040	95543-62-7
9S Δ10-THC	0.040	95588-87-7

**Cannabinoids for Origin Analysis (<https://pubmed.ncbi.nlm.nih.gov/37496090/>)**

Cannabinoid	LLOQ (mg/g)	CAS #
CBG	10.0	25654-31-3
cis-Δ9-THC	2.5	6087-73-6
Δ8-iso-THC	10.0	23050-47-7

Source	CBG (1%)	cis-d9-THC (0.25%)	d8 + d8-iso (1%)
Cannabis	+	-	-
Hemp	+	+	-
Synthesis	-	+	+