



CR-101 Memorandum Incremental Expansion of Tier 1 Canopy

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Description of the Issue

RCW 69.50.345(3) directed the Washington State Liquor and Cannabis Board (Board) to adopt rules establishing the “maximum quantity of marijuana a marijuana producer may have on the premises of a licensed location at any time without violating Washington state law.” In response to this mandate, LCB adopted rules under WAC 314-55-075(6) establishing limitations for three tiers of licensed marijuana producers. Current rule provides that Tier 1 licensees may produce up to 2,000 square feet, Tier 2 licensees may produce from 2,000 up to 10,000 square feet, and Tier 3 licensees may produce from 10,000 up to 30,000 square feet.

Since these tier limits have been established, Board staff has received requests from segments of the industry, including medical marijuana patients, to increase the availability of Department of Health (DOH) compliant product in licensed retail stores. The Board has also learned that smaller producers are concerned about business viability based on canopy space restrictions. Recognizing this, the Board would like to explore the ways that it can support Tier 1 producers to support business viability in a highly competitive market.

Understanding that patient access to safe marijuana products priorities in Second Substitute Senate Bill 5052 passed during the 64th legislative session, increased access to medical marijuana is a goal identified in the Board’s 2019 – 2024 Strategic Plan. Addressing barriers to small businesses is also a goal described in the Strategic Plan. Considering rule amendments that support those initiatives will further reinforce the Board’s commitment to those goals.

Additionally, it is possible that the ability for licensed Tier 1 producers to incrementally increase canopy may offset potential business expenses associated with the proposal that would amend and create new sections of rule regarding quality control testing. Increasing growing capacity for these producers may provide an opportunity to generate revenue that could support quality control compliance.

Reasons why rules may be needed:

As discussed above, canopy size and any adjustments must established in rule. Rulemaking is needed to consider revisions or adjustments to those production canopy limitations.



Revisions may also include clarifying and technical updates to existing rule.

Process

The rule making process begins by announcing LCB's intent to consider changes to existing rules, adding new rule sections, or both by filing a CR-101 form with the Office of the Code Reviser. This allows staff, stakeholders, industry partners, and all members of the authorizing environment to begin discussing proposed rule changes. At the CR-101 stage of the rulemaking process, no proposed language is offered. Any interested party may comment on the subject of this possible rulemaking during the designated comment period. Notice will be sent to all who have indicated that they want to receive notice of rule activity pertaining to this preproposal inquiry. The notice will identify the public comment period and where comments can be sent.