



CR103 Memorandum

Regarding chapter 314-55 WAC: amendments and new rule sections to establish the Social Equity in Cannabis Program

Date: October 12, 2022
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Background

Established in 2020, RCW 69.50.336 created the Social Equity in Cannabis Task Force (Task Force) responsible, among other things, for making recommendations to the Washington State Liquor and Cannabis Board (WSLCB). RCW 69.50.335, also established in 2020, gives the WSLCB authority to create the Social Equity in Cannabis Program, consistent with those recommendations.

The Task Force has met continuously since early 2020, and established sub-groups to discuss and develop recommendations concerning disproportionately impacted communities, technical assistance and mentoring, and licensing.

While the Task Force worked toward formulating recommendations, WSLCB began to review existing rule to determine where revisions could be made that would lead to socially equitable conditions. The first effort involved revising cannabis license applicant and renewal background checks that removed barriers to entry in the licensed system. WSLCB also explored where additional revisions could be made within its statutory authority, and to assure that the agency was positioned to respond as quickly as possible when Task Force recommendations became available.

The Task Force issued recommendations on January 6, 2022, offered as Attachment A. The agency carefully reviewed and analyzed each recommendation pertaining to rules that would establish the Social Equity in Cannabis Program. Those recommendations have been incorporated into the adopted rules in a way that intentionally and specifically centers equity within the regulatory framework and associated administrative process.

Rule Necessity

Engrossed Second Substitute House Bill (ESSHB) 2870 (Chapter 236, Laws of 2020), codified as RCW 69.50.335 and .336 provided a three-part intent section, offering in relevant part that "...in the interest of remedying harms resulting from

the enforcement of cannabis-related laws in disproportionately impacted areas, creating a Social Equity in Cannabis Program will further an equitable cannabis industry by promoting business ownership among individuals who have resided in areas of high poverty and high enforcement of cannabis-related laws.”

The Social Equity in Cannabis program is authorized by RCW 69.50.335 and RCW 69.50.336 and consistent with these statutes, is designed to offer assistance to individuals most directly and adversely impacted by the enforcement of cannabis related laws who are interested in starting cannabis business enterprises. Rules are needed to implement this program, and to implement second Substitute House Bill (SSHB) 1210, Chapter 16, Laws of 2022, effective June 9, 2022 that changes the word “marijuana” to “cannabis” throughout Washington state law.

Description of Rule Changes

Amended section (technical changes). WAC 314-55-015: *Formerly entitled “General Information about marijuana licenses”* renamed “General information about cannabis licenses.” This section was updated and modernized to align with previous rule updates, and to increase readability and ease of use. No substantive changes were made to the rule section.

Amended section (technical changes). WAC 314-55-020: *Formerly entitled “Marijuana license qualifications and application process – Licensing requests”* renamed “Cannabis license qualifications and application process – Licensing change requests.” Existing language was updated, reorganized and streamlined to increase readability and ease of use. No substantive changes were made to the rule section.

Amended section (technical changes). WAC 314-55-040: Technical change was made to subsection (4)(a) by adding the words “there is” in the sentence structure.

Amended section (technical changes). WAC 314-55-045: *Formerly entitled “What marijuana law or rule violation history might prevent an applicant from receiving a marijuana license?”* renamed “Cannabis license applicant administrative violation review.” Existing language was updated, reorganized and simplified to increase readability and ease of use. Updates were made to align references to enforcement rule changes that were completed in early 2020. No substantive changes were made to the rule section.

Amended section (technical changes). WAC 314-55-050: *Formerly entitled, “Reasons why the WSLCB may seek denial, suspension, or cancellation of a marijuana license application or license,”* renamed “Denial, suspension or cancellation of a cannabis license application or license.” Existing language was

updated, reorganized and simplified to increase readability and ease of use. No substantive changes were made to the rule section.

Amended section (technical changes). WAC 314-55-055: *Formerly entitled, “Marijuana retail license forfeiture”* renamed “Cannabis retail license forfeiture.” Existing language was updated, reorganized and simplified to increase readability and ease of use. No substantive changes were made to the rule section.

Amended section (technical changes). WAC 314-55-070: *Formerly entitled, “Process if the WSLCB denies a marijuana license application”* renamed “Cannabis license application denial.” Existing language was updated, reorganized and simplified to increase readability and ease of use. No substantive changes were made to the rule section.

Amended section (technical changes). WAC 314-55-079: *Formerly entitled, “Marijuana retailer license – Privileges, requirements, and fees”* renamed “Cannabis retailer license – Privileges, requirements, and fees.” Existing language was updated and simplified to increase readability and ease of use. No substantive changes were made to the rule section.

Amended section (technical changes). WAC 314-55-082: Insurance requirements. Existing language was updated and simplified to increase readability and ease of use. No substantive changes were made to the rule section.

Amended section (technical changes). WAC 314-55-110. *Formerly entitled, “What are my responsibilities as a marijuana licensee?”* renamed “Licensee responsibilities.” Existing language was updated and simplified to increase readability and ease of use. No substantive changes were made to the rule section.

Amended section (technical changes). WAC 314-55-120. Ownership changes. Existing language was updated and simplified to increase readability and ease of use. No substantive changes were made to the rule section.

Amended section (technical changes). WAC 314-55-125. Change of location. Existing language was updated and simplified to increase readability and ease of use. No substantive changes were made to the rule section.

Amended section (technical changes). WAC 314-55-137. Receiverships. Existing language was updated and simplified to increase readability and ease of use. No substantive changes were made to the rule section.

New Section (new rule section). WAC 314-55-570. Social Equity in Cannabis Program.

The following table describes each new rule section, and aligns it with the recommendations of the Social Equity in Cannabis Task Force as described in Attachment A.

New Rule Section	Summary	Alignment with SETF Recommendations, Statutory Authority, or Both
WAC 314-55-570(1) Definitions	Provides a list of definitions for words, terms, and phrases used throughout the section.	<i>Statutory Authority</i> RCW 69.50.335(4)
WAC 314-55-570(1)(a) Disproportionately Impacted Area (DIA)	Aligns with and expands statutory language; provides that the board will provide maps that reflect census tracts from different time periods to account for gentrification.	<i>Statutory Authority</i> RCW 69.50.335(6)(b)
WAC 314-55-570(1)(b) Double Blind Lottery	Defined as a selection process to determine the order of application processing to be conducted by an independent third party in the event of a tie.	SETF Recommendation: Double-Blind Lottery (3rd party) • Method used to determine winners in the event of a tie. <i>Statutory Authority</i> RCW 69.50.335(4)
WAC 314-55-570(1)(c) Family Member	Rule Text: (c) "Family member" means: (i) A biological, adopted, or foster child, a stepchild, a child's spouse, or a child to whom the applicant stands in loco parentis (in place of the parent), is a legal guardian, or is a de facto parent, regardless of age or dependency status; (ii) Grandchild, grandparent, parent, sibling, or spouse; (iii) Any individual who regularly resides in the applicant's home or where the relationship creates an expectation that the applicant care for the person and that individual depends on the applicant for care.	SETF Recommendation: Definition of "Family member": includes a biological, adopted, or foster child, a stepchild, a child's spouse, or a child to whom the applicant stands loco parentis (in place of a parent), is a legal guardian, or is a de facto parent, regardless of age or dependency status; grandchild, grandparent, parent, sibling, or spouse, and also includes any individual who regularly resides in the applicant's home or where the relationship creates an expectation that the applicant care for the person and that individual depends on the applicant for care. Except that it does not include an individual who simply resides in the same home with no expectation that the employee care for the individual.
WAC 314-55-570(1)(d) Median household income	Need to provide definition for phrase used in WSLCB Scoring Rubric; see proposed WAC 314-55-570(3)(c)(v)	<i>Statutory Authority</i> RCW 69.50.335(4) See also Attachment G
WAC 314-55-570(1)(e) Person	Needed to distinguish between person or other business entity.	<i>Statutory Authority</i> RCW 69.50.335(4)
WAC 314-55-570(1)(f) Preliminary letter of approval	Needed to define term used in Social Equity Task Force recommendation.	SETF Recommendation: Approval letter is given to selected applicants by the Social Equity Case Manager. Applicants with an approval letter can then take that letter to apply for grants from the Department of Commerce. These grant dollars can then be used to help the applicant secure retail location and other necessities needed to complete the remaining portion of the application process. <i>Statutory Authority</i> RCW 69.50.335(4)
WAC 314-55-570(1)(g) Social equity applicant	Needed to define term in rule context.	<i>Statutory Authority</i> RCW 69.50.335(4) <i>Statutory Authority</i> RCW 69.50.335(6)(c)
WAC 314-55-570(1)(h) Social equity contractor	Needed to define term in rule context.	SETF Recommendation: Responsibility is to review and score social equity plans. Then recommend winning candidates to the Social Equity Case Manager (LCB) for approval and advancement. <i>Statutory Authority</i>

		RCW 69.50.335(4)
WAC 314-55-570(1)(i) Social equity licensee	Needed to define term in rule context.	<i>Statutory Authority</i> RCW 69.50.335(4)
WAC 314-55-570(1)(j) Social equity plan	Needed to define term in rule context.	<i>Statutory Authority</i> RCW 69.50.335(4)
WAC 314-55-570(2) Social equity applicant requirements	Described social equity applicant requirements, consistent with the WSLB WSLCB Scoring Rubric; see proposed WAC 314-55-570(3)(c)(v). Provides that a social equity applicant must meet at least two of the three requirements described in the scoring rubric.	<i>Statutory Authority</i> RCW 69.50.335(2)(a) <i>Statutory Authority</i> RCW 69.50.335(4) See also Attachment G
WAC 314-55-570(3) Social equity application process	Describes the following social equity application process: Provides a 30 calendar day application window that the board may reopen at its discretion; Location address is not required at the time of application; Applicant may apply once and select one county where they wish to operate their business; Board will provide a list of available counties. Social equity contractor will review using WSLCB scoring rubric; other submission requirements apply; Highest scoring applicants will be processed by the board; Double blind lottery will occur in the event that the number of eligible applicants exceeds the number of available licenses; Preliminary letter of approval issued.	SETF Recommendation: 1) Social Equity Application a) Social Equity Application Process: i) 30-60-day application window to submit information (closed window) ii) Liquor & Cannabis Board to contract with Equity organization (3rd party). iii) double-blind tiebreakers (If necessary) iv) Social Equity Applicants are given a preliminary letter of approval from the case manager. v) No time restrictions to secure a location. vi) Social Equity Case Manager (Within Liquor Cannabis Board) to ensure equity standards are met and to help guide applicants during the process <i>Statutory Authority</i> RCW 69.50.335(2)(a) <i>Statutory Authority</i> RCW 69.50.335(4)
WAC 314-55-570(4) Additional provisions	No time restriction to secure a location. Provides that an applicant may not make ownership changes after application has been reviewed, scored, and prioritized; Provides for license mobility within county; Provides that licenses awarded under program may not be transferred within the first year of issuance; may only be transferred to groups or individuals who comply with initial licensure as a social equity applicant for a period of five years from the date of transfer.	SETF Recommendation: No time restriction to secure a location. This allows the applicant to secure a location. The Liquor & Cannabis Board will give the Social Equity Applicant a window to search for a location. The Social Equity Case Manager will monitor that applicant was given full time to secure the location. <i>Statutory Authority</i> RCW 69.50.335(4)
WAC 314-55-570(5) Application withdrawal	Describes social equity application withdrawal processes and circumstances under which a social equity application may be withdrawn.	<i>Statutory Authority</i> RCW 69.50.335(4)

Variance between proposed rule (CR102) and final rule:

WAC 314-55-045(2): removed inadvertent reference to true party of interest violation when reference should have been to violation history.

WAC 314-55-079(1)(a): changed word “marijuana” to “cannabis” in first line.

WAC 314-55-079(2): changed “www.lcb.wa.gov” to “lcb.wa.gov.”

WAC 314-55-079(2)(b): changed “www.lcb.wa.gov” to “lcb.wa.gov.”

WAC 314-55-110(4)(a): changed word “marijuana” to “cannabis.”

WAC 314-55-570(3)(c)(8): corrected typographical error in scoring rubric under Eligibility Requirement 1a, regarding length of time in a disproportionately impacted area (DIA). 5 years to 10 years in a DIA was changed from 10 points to 20 points; 10+ years was changed from 20 points to 40 points.

Added word “Maximum” between “Total” and “Points” at the end of the scoring rubric.

WAC 314-55-570(6): Added further clarification about when the board will withdraw a social equity license.

Rule Implementation (RCW 34.05.328(3)(a))

Informing and Educating Persons Impacted by the Rule (RCW 34.05.328(3)(b))

To help inform and educate persons impacted by the rule, the WSLCB will:

- Email notice with the adoption materials to persons who commented on the rules, the rule making and licensee distribution lists, and the general WSLCB GovDelivery list;
- Post rule adoption materials, including final rule language, response to comments, final analysis (Concise Explanatory Statement), and any other relevant documents on the rulemaking webpage for public access.
- LCB is working with [Make Green Go](#) to develop videos for applicant training on licensing processes. LCB will offer a combination of short videos and hosting live workshops to prepare potential applicants to apply for licensure.

Promoting and Assisting Voluntary Compliance (RCW 34.05.328(3)(c))

WSLCB will promote and assist voluntary compliance through technical assistance.

- WSLCB staff are available to respond to phone and email inquiries about the rules.
- Agency leadership and staff have actively participated in rule development and revisions, and are familiar with the final product. Internal and external education efforts to share knowledge and assure consistent application of rule have will be supported.
- Rule and guidance documents will be available on the WSLCB website.
- WSLCB will use available and customary resources to disseminate materials and information to all persons impacted by the rules.

These actions are designed to inform and educate all persons impacted by the rules to support and promote voluntary compliance.

Training and Informing WSLCB Staff

Several WSLCB staff responsible for implementing these adopted rules work directly with impacted parties and are already familiar with the nuances of the rule changes. Additional internal guidance documents may be prepared as necessary. The WSLCB will also consider:

- Provision of internal and external training and education, as needed, potentially including webinars, training, and videos if appropriate;
- Coordinating and centrally locating decisions to assure consistency between agency, staff, and industry.

Rule Effectiveness Evaluation (RCW 34.05.328(3)(d))

The WSLCB will evaluate the effectiveness of these rules in the following ways, including but not limited to:

- Monitoring questions received after the effective date of these rules, and adjusting training and guidance accordingly;
- Monitoring the number of enforcement actions, including type, resolution, and final outcome;
- Monitoring the number of requests for rule language revisions or changes;
- Monitoring the number of requests for rule interpretation;
- Monitoring licensee feedback including, but not limited to, the number of requests for assistance.