



NOTICE OF ADOPTION OF POLICY STATEMENT

Title of Policy Statement: Payment of Vendor Fees by Certified Marijuana Testing Labs – Policy Statement Number PS21-06.

Issuing Entity: Washington State Liquor and Cannabis Board

Subject Matter: This policy statement is intended to describe how certified marijuana testing labs pay vendor fees for validation and ongoing monitoring.

Effective Date: November 10, 2021

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Policy Statement

Title:	Payment of Vendor Fees by Certified Marijuana Testing Labs	<i>Number PS-21-06</i>
References:	RCW 69.50.342 RCW 69.50.348 WAC 314-55-0995	
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Effective Date:	November 10, 2021	
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[RCW 34.05.230 – Interpretive and policy statements](#)

- (1) An agency is encouraged to advise the public of its current opinions, approaches, and likely courses of action by means of interpretive or policy statements. Current interpretive and policy statements are advisory only. To better inform the public, an agency is encouraged to convert long-standing interpretive and policy statements into rules.

INTRODUCTION

Throughout this document, the term “cannabis” is used in the context of the statutory meaning of “marijuana” as defined in chapter 69.50 RCW. However, current statutory references provided in this document continue to use the word “marijuana.”

This policy statement is intended to describe how certified marijuana (cannabis) testing labs pay vendor fees for validation and ongoing monitoring.

This policy statement supersedes and replaces previous agency guidance concerning this topic.

POLICY STATEMENT

Consistent with WAC 314-55-0995, WSLCB may require third-party validation and ongoing monitoring of a certified lab’s basic proficiency to correctly execute the analytical methodologies employed by the certified lab. The Washington State Liquor and Cannabis Board (WSLCB) may contract with a vendor to conduct the validation and ongoing monitoring described in rule. The certified lab must pay all vendor fees for validation and ongoing monitoring directly to the WSLCB or its vendor. This policy statement supersedes and replaces Board Interim Policy 11-2019.

STATUTORY AUTHORITY

RCW 69.50.342(c) provides that the WSLCB can make rules describing the methods of producing, processing, and packaging marijuana, usable marijuana, marijuana concentrates, and marijuana infused products; approved pesticides and pesticide testing requirements; and standards of ingredients, quality, and identity of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products produced, processed, packaged, or sold by licensees.

RCW 69.50.348 provides that the WSLCB will determine the schedule for submission of representative samples of marijuana, usable marijuana or marijuana-infused products produced and processed by licensees to independent third-party labs meeting accreditation requirements established by the WSLCB. It also describes how test results will be submitted to the WSLCB and provides that if a representative sample does not meet quality assurance standards established by the WSLCB, that the entire lot from which the sample was taken must be destroyed.

WAC 314-55-0995 describes laboratory certification and accreditation requirements. Specifically, WAC 314-55-0995(3)(c) provides that the WSLCB may require third-party validation and ongoing monitoring of a certified lab's basic proficiency to correctly execute the analytical methodologies employed by the certified lab. The WSLCB may contract with a vendor to conduct the validation and ongoing monitoring described in this subsection. The certified lab must pay all vendor fees for validation and ongoing monitoring directly to the WSLCB's vendor.

DISCUSSION

The WSLCB certifies third-party labs to perform quality assurance testing on cannabis and cannabis products in Washington state. Certified third-party labs must maintain specific requirements to remain certified. Among these is the requirement to be certified for a suite, or specific collection of required compliance tests. Certified labs have the option of certification for two optional testing areas, including pesticides, heavy metals, and terpenes.

Currently, WAC 314-55-0995(3)(c) provides that the WSLCB may require third party validation and ongoing monitoring of a certified lab's basic proficiency to correctly execute the analytical methodologies employed by the certified lab. The WSLCB may contract with a vendor to conduct the validation and ongoing monitoring, and the certified lab must pay all vendor fees for validation and ongoing monitoring directly to the WSLCB's vendor.

Columbia Basin College and the WSLCB entered into an interagency agreement on December 24, 2013 for performance of third party validation of certified labs. However, that work had been performed by the RJ Lee Group as a subcontractor to Columbia Basin

College. During year-end contract negotiations in late 2018, Columbia Basin College opted to no longer operate as the intermediary between the RJ Lee Group and the WSLCB. As a result, the interagency agreement between Columbia Basin College and the WSLCB terminated on December 31, 2018.

The WSLCB pursued a sole source contract with the RJ Lee Group. The RJ Lee Group was willing to continue laboratory certification review and validation, but was unable to accept payments directly from the certified third-party testing labs based on internal and organizational policies, in addition to receiving federal funding that could preclude payment from marijuana-related activity.

WSLCB staff explored available options, and determined that a sole source contract with the RJ Lee Group offered operational continuity with the least amount of business disruption. The ability for WSLCB to bill certified third-party testing labs was vetted and affirmed through the WSLCB Finance Director. Billing could be accommodated through the WSLCB finance department, and been accommodated continuously since February 20, 2019.

CONCLUSION

Consistent with WAC 314-55-0995, WSLCB may require third-party validation and ongoing monitoring of a certified lab's basic proficiency to correctly execute the analytical methodologies employed by the certified lab. To assure continued operational continuity until WAC 314-55-0995(3)(c) can be updated and revised, certified lab must pay all vendor fees for validation and ongoing monitoring directly to the WSLCB *or* its vendor, rather than directly to the vendor since Columbia Basin College opted to no longer act as the intermediary between the RJ Lee Group and WSLCB.